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LEGISLATIVE HISTORY

Public Law 873--81st Congress

Chapter 1123--2d Session

H. R. 7824

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PERFORMANCE RATING ACT OF 1950. Provides for the establishment by the Federal departments and agencies of performance rating plans for Government employees with ratings of "outstanding", "satisfactory", and "unsatisfactory".

INDEX AND SUMMARY OF HISTORY ON H. R. 7824

March 23, 1950	H. R. 7824 was introduced by Rep. Murray and referred to the House Comm. on Post Office and Civil Service. Print of the bill as introduced.
May 29, 1950	House Committee reported H. R. 7824 with amendments. House Report 2162. Print of the bill as reported.
June 19, 1950	House debated and passed H. R. 7824 with amendment.
June 20, 1950	Print of H. R. 7824 as passed the House.
June 22, 1950	H. R. 8925 was introduced by Rep. Murray and was referred to the House Comm. on Post Office and Civil Service. Print of the bill as introduced. (Similar bill).
July 1, 1950	Hearings: House, H. R. 8925.
July 20, 1950	House Committee reported H. R. 8925 with amendments. House Report 2698. Print of the bill as reported.
August 10, 1950	Senate Committee reported H. R. 7824 with amendments. Senate Report 2265. Print of the bill as reported.
August 23, 1950	Senate debated and passed H. R. 7824 as reported.
August 28, 1950	Both Houses appointed conferees.
September 20, 1950	Senate agreed to the conference report.
September 21, 1950	House received the conference report. House Report 3125.
September 22, 1950	House agreed to the conference report.
September 30, 1950	Approved. Public Law 873.

81ST CONGRESS
2^D SESSION

H. R. 7824

IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 1950

Mr. MURRAY of Tennessee introduced the following bill; which was referred to the Committee on Post Office and Civil Service

A BILL

To provide for the administration of performance-rating plans for certain officers and employees of the Federal Government, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Performance Rating Act
4 of 1950".

5 SEC. 2. (a) For the purposes of this Act, the term
6 "department" includes (1) the executive departments; (2)
7 the independent establishments and agencies in the executive
8 branch, including corporations wholly owned by the United
9 States; (3) the Administrative Office of the United States
10 Courts; (4) the Library of Congress; (5) the Botanic

1 Garden; (6) the Government Printing Office; (7) the
2 General Accounting Office; and (8) the municipal govern-
3 ment of the District of Columbia.

4 (b) This Act shall not apply to the Tennessee Valley
5 Authority, the field service of the Post Office Department,
6 the Department of Medicine and Surgery of the Veterans'
7 Administration, the Foreign Service of the United States
8 under the Department of State, or to employees in the
9 Territories and possessions of the United States.

10 SEC. 3. For the purpose of recognizing the merits of
11 officers and employees, and their contributions to efficiency
12 and economy in the Federal service, each department shall
13 establish and use one or more performance-rating plans for
14 evaluating the work performance of such officers and
15 employees.

16 SEC. 4. No officer or employee of any department shall
17 be given a performance rating, regardless of the name given
18 to such rating, and no such rating shall be used as a basis
19 for any action, except under a performance rating plan
20 approved by the Civil Service Commission as conforming
21 with the requirements of this Act.

22 SEC. 5. Performance-rating plans required by this Act
23 shall be as simple as possible, and each such plan shall
24 provide—

(1) that proper performance requirements be made known to all officers and employees;

(2) that performance be fairly appraised in relation to such requirements;

(3) for the use of appraisals to improve the effectiveness of employee performance;

(4) for strengthening supervisor-employee relationships; and

(5) that each officer and employee be kept currently advised of his performance and promptly notified of his performance rating.

SEC. 6. Each performance-rating plan shall provide for ratings representing at least (1) satisfactory performance, corresponding to an efficiency rating of "good" under the Veterans' Preference Act of 1944, as amended, and under laws superseded by this Act; (2) unsatisfactory performance, which shall serve as a basis for removal from the position in which such unsatisfactory performance was rendered; and (3) excellent performance, which shall be accorded only when all aspects of performance not only exceed normal requirements but are outstanding and deserve special commendation. No officer or employee shall be rated unsatisfactory without a ninety-day prior warning and a reasonable opportunity to demonstrate satisfactory performance.

1 SEC. 7. (a) Upon the request of any officer or em-
2 ployee of a department, such department shall provide one
3 impartial review of the performance rating of such officer
4 or employee.

5 (b) There shall be established in each department one
6 or more boards of review for the purpose of considering and
7 passing upon the merits of performance ratings under rating
8 plans established under this Act. Each board of review
9 shall be composed of three members. One member shall be
10 designated by the head of the department. One member
11 shall be designated by the officers and employees of the
12 department in such manner as may be provided by the
13 Civil Service Commission. One member, who shall serve
14 as chairman, shall be designated by the Civil Service Com-
15 mission. Alternate members shall be designated in the
16 same manner as their respective principal members.

17 (c) In addition to the performance-rating appeal pro-
18 vided in subsection (a), any officer or employee with a
19 current performance rating of less than excellent, upon writ-
20 ten appeal to the chairman of the appropriate board of
21 review established under subsection (b), shall be entitled,
22 as a matter of right, to a hearing and decision on the merits
23 of the appealed rating.

24 (d) At such hearing the appellant, or his designated
25 representative, and representatives of the department shall

1 be afforded an opportunity to submit pertinent information
2 orally or in writing, and to hear or examine, and reply to,
3 information submitted by others. After such hearing, the
4 board of review shall confirm the appealed rating or make
5 such change as it deems to be proper.

6 SEC. 8. (a) The Civil Service Commission is authorized
7 to issue such regulations as may be necessary for the admin-
8 istration of this Act.

9 (b) The Commission shall inspect the administration
10 of performance-rating plans by each department to deter-
11 mine compliance with the requirements of this Act and
12 regulations issued thereunder.

13 (c) Whenever the Commission shall determine that a
14 performance-rating plan is not being administered in com-
15 pliance with this Act and the regulations issued thereunder,
16 the Commission may, after notice to the department, giving
17 the reasons, revoke its approval of such plan.

18 (d) After such revocation, such performance-rating
19 plan and any current ratings thereunder shall become inop-
20 erative, and the department shall thereupon use a perform-
21 ance-rating plan prescribed by the Commission.

22 SEC. 9. (a) Section 701 of the Classification Act of
23 1949 (Public Law 429, Eighty-first Congress, approved
24 October 28, 1949) is hereby amended to read as follows:

25 "SEC. 701. Each officer or employee compensated on

1 a per annum basis, and occupying a permanent position
2 within the scope of the compensation schedules fixed by
3 this Act, who has not attained the maximum scheduled rate
4 of compensation for the grade in which his position is placed,
5 shall be advanced in compensation successively to the next
6 higher rate within the grade at the beginning of the next
7 pay period following the completion of (1) each fifty-two
8 calendar weeks of service if his position is in a grade in
9 which the step-increases are less than \$200, or (2) each
10 seventy-eight calendar weeks of service if his position is
11 in a grade in which the step-increases are \$200 or more,
12 subject to the following conditions:

13 “(A) That no equivalent increase in compensation
14 from any cause was received during such period, except
15 increase made pursuant to section 702 or 1002;

16 “(B) That he has a current performance rating of
17 ‘Satisfactory’ or better; and

18 “(C) That the benefit of successive step-increases
19 shall be preserved, under regulations issued by the Com-
20 mission, for officers and employees whose continuous
21 service is interrupted in the public interest by service
22 with the armed forces or by service in essential non-
23 Government civilian employment during a period of war
24 or national emergency.”

25 (b) Section 702 (a) of such Act is amended by striking

1 out "section 701 (a)" and inserting in lieu thereof "section
2 701".

3 SEC. 10. Section 703 (b) (2) of title VII of the
4 Classification Act of 1949 (Public Law 429, Eighty-first
5 Congress, approved October 28, 1949) is hereby amended
6 to read:

7 "(2) No officer or employee shall receive a longevity
8 step-increase unless his current performance rating is 'satis-
9 factory' or better."

10 SEC. 11. The following Acts or parts of Acts are hereby
11 repealed:

12 (1) Section 4 of the Act of August 23, 1912 (37 Stat.
13 413) ;

14 (2) The Act of July 31, 1946 (60 Stat. 751; 5 U. S. C.
15 669a) ;

16 (3) Title IX of the Classification Act of 1949 (Public
17 Law 429, Eighty-first Congress) .

18 SEC. 12. This Act shall take effect ninety days after the
19 date of its enactment.

20 SEC. 13. There are hereby authorized to be appropriated
21 such sums as may be necessary to carry out the provisions
22 of this Act.

23 SEC. 14. All laws or parts of laws inconsistent herewith
24 are hereby repealed to the extent of such inconsistency.

A BILL

To provide for the administration of performance-rating plans for certain officers and employees of the Federal Government, and for other purposes.

By Mr. MURRAY of Tennessee

MARCH 23, 1950

Referred to the Committee on Post Office and Civil Service

PROVIDING FOR THE ADMINISTRATION OF PERFORMANCE-RATING PLANS FOR CERTAIN OFFICERS AND EMPLOYEES OF THE FEDERAL GOVERNMENT

MAY 29, 1950.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MURRAY of Tennessee, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany H. R. 7824]

The Committee on Post Office and Civil Service, to whom was referred the bill (H. R. 7824) to provide for the administration of performance-rating plans for certain officers and employees of the Federal Government, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

The amendments are as follows:

1. Page 2, strike out lines 4 to 9, both inclusive, and insert in lieu thereof the following:

(b) This Act shall not apply to—

- (1) the Tennessee Valley Authority;
- (2) the field service of the Post Office Department;
- (3) physicians, dentists, nurses, and other employees in the Department of Medicine and Surgery in the Veterans' Administration whose compensation is fixed under Public Law 293, Seventy-ninth Congress, approved January 3, 1946;
- (4) the Foreign Service of the United States under the Department of State;
- (5) Production Credit Corporations;
- (6) Federal Intermediate Credit Banks;
- (7) Federal Land Banks;
- (8) Banks for Cooperatives;
- (9) officers and employees of the municipal government of the District of Columbia whose compensation is not fixed by the Classification Act of 1949 (Public Law 429, 81st Cong., approved October 28, 1949).

2. Page 5, line 14, strike out beginning with the word "is" down through the word "with" in line 15, and insert in lieu thereof the following: "does not meet the requirements of".

PURPOSE OF AMENDMENTS

(1) The first amendment revises subsection (b) of section 1 of the bill in the following manner: (a) The exemption applying to employees in the Territories and possessions of the United States is omitted, (b) adds additional exemptions including the production credit corporations, Federal intermediate credit banks, Federal land banks, banks for cooperatives, and officers and employees of the municipal government of the District of Columbia who are not under the Classification Act of 1949, and (c) makes a perfecting revision in the language relating to the Department of Medicine and Surgery of the Veterans' Administration.

(2) The second amendment is merely a perfecting amendment which changes the language of subsection (c) of section 8 by inserting language which is more consistent with the other provisions of the bill.

STATEMENT

The purpose of the bill, amended as shown above, is to provide for a performance-rating system for certain officers and employees of the Federal Government to replace the existing efficiency rating system provided for in title IX of the Classification Act of 1949.

The bill applies generally to all departments and agencies in the executive branch of the Government, with the exception of certain departments and agencies or parts thereof which, in the judgment of the committee, have satisfactory performance-rating systems for their employees.

With respect to the departments and agencies covered, the general policy is provided that each department and agency shall establish and use a performance-rating system for evaluating the work performance of its employees under performance-rating plans approved by the Civil Service Commission.

The legislation provides that performance-rating plans shall be as simple as possible, that work-performance requirements be made known to the employees affected, and that operation of the performance-rating system shall improve the effectiveness of the employees' performances and strengthen supervisor-employee relationships.

The present ratings of "Excellent," "Very good," "Good," "Fair," and "Unsatisfactory" are replaced by three ratings of "Satisfactory," which corresponds to the former efficiency rating of "Good" as used in the Veterans' Preference Act of 1944 and other laws superseded by this legislation; "Unsatisfactory," which rating shall serve as a basis for removal from the position in which such unsatisfactory performance is rendered, and "Excellent," which shall be accorded when all aspects of work performance not only exceed normal requirements but are outstanding and deserve special commendation.

The legislation further provides that no officer or employee shall be rated "Unsatisfactory" without a 90-day prior warning and a reasonable opportunity to demonstrate satisfactory performance. Although this requirement is included in rules and regulations of the Civil Service Commission at the present time, the committee believed the provision should be included in this bill.

The procedure provided for in the bill with respect to the establishment of boards of review for the purpose of considering performance-

rating appeals is identical with the present procedure with respect to efficiency-rating appeals.

The appellant whose performance rating is less than "Excellent" shall be entitled as a matter of right to a hearing and decision on the merits of the rating appealed, and such appellant or his designated representative, as well as representatives of the employing department, shall be afforded an opportunity to submit pertinent information orally or in writing and to hear or examine and reply to information submitted by others.

The present rights of Federal employees to appeal their efficiency ratings to an impartial and independent board of review is included in the legislation. In addition, upon the request of any officer or employee of a department covered by the legislation, such department shall provide an impartial review of the performance rating of such officer or employee.

The Civil Service Commission is authorized by the legislation to issue such regulations as may be necessary for the administration of the provisions of the bill. Also, the Commission is responsible for the inspection of performance-rating plans and may revoke its approval of such plans if it determines that such plans are not being administered in compliance with the provisions of the bill.

The bill amends section 701 of the Classification Act of 1949 (Public Law 428, 81st Cong., approved October 28, 1949), by striking out the requirement that an officer or employee must have his service and conduct certified as satisfactory before such officer or employee is entitled to within-grade step increases or longevity step increases provided for in title VII of the Classification Act of 1949. Such within-grade or longevity step increases would be granted when an officer or employee has a current performance rating of "Satisfactory" or better.

The bill specifically repeals title IX of the Classification Act of 1949 which provides for the present efficiency rating system and other acts or parts of acts which are inconsistent with the provisions of the bill.

Extensive hearings were conducted with respect to this legislation at which time representatives of Federal employee organizations, including the American Federation of Government Employees, the National Federation of Federal Employees, Government Employees' Council, and the American Federation of Labor appeared and unanimously supported the provisions of the bill.

¶The Civil Service Commission and the Bureau of the Budget submitted reports to the committee regarding this legislation which stated that the bill represented an improvement over the present efficiency rating system, but suggested amendments striking out certain provisions which the committee considers vital to the proper administration of a performance-rating system affecting Federal employees.

Commissioner Frances Perkins appeared before the committee and expressed the views of the Civil Service Commission and specifically opposed the requirement that the departments and agencies covered by the legislation should be required to establish and use one or more performance-rating plans for evaluating the work performance of their officers and employees. Also, Commissioner Perkins stated the Commission believed it was unnecessary for the legislation to contain language outlining broad policy with respect to the contents of

performance-rating plans. In addition, the Commission was opposed to the language of the bill which provided for an independent and impartial board of review in each department, whose chairman shall be designated by the Civil Service Commission, to review appeals of officers and employees from performance ratings of less than "Excellent."

The committee carefully considered the proposals of the Civil Service Commission with respect to amending the legislation, but agreed unanimously: (1) That departments and agencies covered by the legislation should be required to provide performance-rating plans, subject to the approval of the Civil Service Commission, (2) that the bill should outline appropriate broad policy under which performance-rating plans are to be administered, and (3) that officers and employees covered by the bill are entitled to impartial reviews of their performance ratings through appeals to an independent board composed of a member designated by the head of the employing agency, a member designated by the employees of such agency, and a chairman designated by the Civil Service Commission. //

According to information furnished the committee during the last 8 years, 46 percent of employee appeals to efficiency rating boards of review were adjudicated in favor of the appellants. This record fully justifies the position of the committee against abolition of employee appeals to boards of review in connection with performance ratings. The present rights of Federal employees should be preserved.

The general objective of the legislation is to provide a more flexible and workable performance-rating system for Federal employees. In the opinion of the committee the bill provides adequate safeguards for all Federal employees and will result in a more efficient Federal civil service. Although the legislation contains general policy requirements, there is sufficient flexibility to allow the Civil Service Commission and the departments and agencies to work out, within reasonable limitations, performance rating plans which will be superior to the efficiency-rating system under present law.

The committee estimates that the legislation will result in a saving in Federal funds, by reason of the fact there will be less performance-rating appeals by Federal employees since the number of ratings has been reduced from five to three.

Section 903 of the Classification Act of 1949 provided that the Civil Service Commission should make a study of the efficiency-rating system in the Federal service and submit a report to the Congress on or before February 1, 1950. Appendix 1 contains a history of the efficiency-rating system included in that report.

The reports of the Civil Service Commission dated March 30 and March 1, 1950; the Bureau of the Budget dated May 12, 1950; and the District of Columbia Commissioners dated May 2, 1950, are as follows:

UNITED STATES CIVIL SERVICE COMMISSION,
Washington, D. C., March 30, 1950.

Hon. TOM MURRAY,
*Chairman, Committee on Post Office and Civil Service,
United States House of Representatives.*

DEAR MR. MURRAY: This is in response to the request in your letter of March 24, 1950, which we acknowledged on March 27, 1950, for a report on a bill, H. R. 7824, to provide for the administration of performance-rating plans for certain officers and employees of the Federal Government, and for other purposes.

Although this bill is somewhat similar to H. R. 7264, which follows the draft of the Commission's recommendations in its report of January 31, 1950, it is different in several respects.

H. R. 7824 proposes mandatory-rating plans in lieu of optional-evaluation plans recommended by the Commission. We believe that practically all Federal agencies will find it necessary to use plans for evaluating employee performance, but there may be an advantage in permitting each agency to make this decision. The agency would then use such a plan because it needed it, and not merely because it was required to. At the same time, H. R. 7824 follows the Commission's recommendations in giving wide latitude to agencies in devising plans to meet their particular requirements. This degree of latitude is essential.

Summary ratings are required in H. R. 7824, instead of being optional as recommended by the Commission. If summary ratings are to be required, the Commission favors the provisions as stated in section 6 of the bill.

In lieu of the Commission's proposal that performance ratings should not be the basis for any personnel action, H. R. 7824 provides that an "Unsatisfactory" rating shall be a basis for the removal of an employee from his position, and that periodic and longevity step increases shall be awarded solely on the basis of "Satisfactory" or better ratings on the completion of the time periods. With respect to removals, the Commission could provide by regulations that such actions would be handled by the preferment of charges in line with recommendations in our report. However, we feel very strongly that increases in pay should not be automatic.

Under the present provisions of law, a periodic or longevity step increase is granted only when an employee has at least a satisfactory rating, and is also certified as being satisfactory as to service and conduct. The certificate reflects not only performance facts since the last rating date, but also permits consideration of conduct factors which are not considered in a rating of performance. The requirement of the certificate makes it necessary for an agency to make a current review of all factors which should be considered before approving the payment of a higher rate of pay for the employee and to determine whether or not the increase should be granted. We believe that this current review, accomplished through the requirement of a certificate as a condition to an increase in pay, is more important for this purpose than the performance rating, which may have been prepared some months previously. We have no serious objection to the retention of the performance rating as a condition to step increases in pay, but we seriously doubt the wisdom of eliminating the further requirement of a certificate of satisfactory service and conduct.

With respect to performance-rating appeals, H. R. 7824 contains the provision for an impartial review within the agency, recommended by the Commission, and superimposes the board of review provisions of the present law. In effect, this would give statutory sanction to current practices whereby delays in rating determinations, and in final actions based on ratings, are brought about by successive appeals, first within the agency, and later to boards of review. The Commission recommended that it be relieved of its present responsibility for the administration of a performance-rating appeals program, and that a single impartial review be provided in each agency. If the Congress determines that the present board of review program is the most desirable method of deciding performance-rating grievances, the Commission will administer the program accordingly. However, we do not believe that the law should require more than one impartial review of any appealed performance rating. If the board of review program is to be continued, it should be the only appeal required by law, and administrative measures should be applied to insure prompt decisions on the merits of appealed cases.

The Commission is somewhat concerned with the language of section 7 (c) which confers the absolute right upon every employee dissatisfied with his performance rating, not only to appeal to a board of review, but to have the benefit of an expensive hearing, whether or not he presents evidence that the rating may be wrong. We can concede, as a matter of principle, that any employee who is rated as "Unsatisfactory" should have the benefit of a hearing upon his request without having to submit any particular reasons for appealing. However, we believe that an employee with a satisfactory rating should present at least some evidence of error in the rating before the expensive hearing procedure is called into action. This is a matter that can probably be covered better by regulations than by law. The authority to modify the stated right by regulation could be expressed by starting subsection 7 (e) with the words "Subject to regulations of the Civil Service Commission."

Section 2 (b) of the bill exempts employees in the Territories and possessions of the United States from the performance rating provisions. However, many of such employees would be subject to the step-increase provisions of the Classification Act of 1949 as amended by section 9 of the bill. We recognize that there are difficulties of administration with respect to the provisions of sections 7 and 8 of the bill, not only in the Territories and possessions of the United States, but with respect to employees of many departments and agencies at foreign posts of duty. It is suggested that subsection 2 (b) could be amended by eliminating "employees in the Territories and possessions of the United States," and that a subsection (c) could be added, making the provisions of the bill applicable "to the extent practicable" to employees at foreign-duty stations and in the Territories and possessions of the United States.

Although H. R. 7824 proposes less drastic revisions in laws governing performance ratings than those recommended in the Commission's report of January 31, 1950, it represents a distinct improvement over the present statutory requirements. If revisions are made as recommended above, the Commission would recommend favorable consideration of the bill.

Because of the need for immediate report, the Commission has not been able to clear this report with the Bureau of the Budget.

By direction of the Commission:

Sincerely yours,

HARRY B. MITCHELL, *Chairman.*

UNITED STATES CIVIL SERVICE COMMISSION,
Washington, D. C., March 1, 1950.

HON. TOM MURRAY,

*Chairman, Committee on Post Office and Civil Service,
United States House of Representatives.*

DEAR MR. MURRAY: We have your letter of February 27, 1950, requesting information for consideration in connection with H. R. 7264, a bill to authorize the establishment of methods for the evaluation of the performance of work of Federal employees, and for other purposes. The following information is submitted in response to this request:

(1) Statistical analysis of the appeals handled by efficiency rating boards of review, by fiscal years, since 1942:

Year	Appeals received	Decisions rendered						Other disposals
		Raised		Sustained		Lowered		
		Number	Percent	Number	Percent	Number	Percent	
1942-----	287	107	56.0	81	42.4	3	1.6	79
1943-----	1,027	187	50.8	175	47.6	6	1.6	244
1944-----	1,121	356	48.6	370	50.6	6	.8	598
1945-----	1,333	388	50.3	376	48.7	8	1.0	434
1946-----	1,671	402	49.0	410	50.0	8	1.0	704
1947-----	1,670	378	42.2	503	56.2	14	1.6	440
1948-----	1,416	467	41.8	641	57.3	10	.9	725
1949-----	1,178	310	41.3	441	58.7	0	.0	357
Total-----	9,703	2,595	46.0	2,997	53.0	56	1.0	3,581

NOTE.—Other disposals represent cases which were canceled or abandoned, many of which were adjusted or explained by the agencies to the satisfaction of appellants.

Analysis of 751 decisions in fiscal year 1949:

120 cases were appeals from "Unsatisfactory" ratings:

67 or 55.8 percent were sustained

32 or 26.7 percent were raised to "Fair"

20 or 16.7 percent were raised to "Good"

1 or 0.8 percent was raised to "Very good"

155 cases were appeals from "Fair" ratings:

81 or 52.3 percent were sustained

67 or 43.2 percent were raised to "Good"

7 or 4.5 percent were raised to "Very good"

347 cases were appeals from "Good" ratings:

214 or 61.6 percent were sustained

122 or 35.2 percent were raised to "Very good"

11 or 3.2 percent were raised to "Excellent"

129 cases were appeals from "Very good" ratings:

79 or 61.2 percent were sustained

50 or 38.8 percent were raised to "Excellent"

Of the total cases, 441 or 58.7 percent were sustained, 271 or 36.1 percent were raised one level, 38 or 5.1 percent were raised two levels, and 1 or 0.1 percent was raised three levels

(2) In the fiscal year 1949, the Commission expended \$108,276, representing 23.2 man-years (2,088 man-hours per man-year), on efficiency-rating appeals. This activity is expected to cost \$148,281, representing 29 man-years, in fiscal year 1950.

The Commission also expended \$82,343, representing 13 man-years (2,088 man-hours per man-year), in fiscal year 1949 for efficiency-rating advisory service. This activity is estimated to cost \$52,669, representing 8.1 man-years, in fiscal year 1950.

If boards of review are discontinued as proposed in H. R. 7264, the cost of handling efficiency-rating appeals would be eliminated. However, there would be little, if any, reduction in the cost of the efficiency-rating advisory service. Furthermore, under the provisions of H. R. 7264, the Commission would undertake an inspection function which would absorb a part of the savings in present activities. We could also expect some increase in the cost of handling war veterans' appeals under section 14 of the Veterans' Preference Act since the Commission would have to consider performance factors in some cases where performance factors are now decided by efficiency-rating boards of review. In view of these circumstances, no specific estimate of savings can be supplied at this time.

The Commission believes that substantial savings would result in operating departments and agencies if H. R. 7264 is enacted into law, even if there is no reduction in the cost of operations within the Commission. The fact that boards of review now cost other departments and agencies at least twice as much as they cost the Commission, is only a fraction of the savings which would be realized. The change from complex to simple rating systems, contemplated in H. R. 7264, would accomplish greater savings than the mere elimination of boards of review.

(3) H. R. 7264 would not detract from the preference granted to war veterans by section 12 of the Veterans Preference Act, in reductions in force. Even in the cases of agencies which decided not to use performance evaluations, each war veteran would continue to have absolute preference. The Commission now holds that a war veteran shall be considered as "Good" or better, and thereby entitled to absolute preference, unless he is officially rated less than "Good" under a rating system which the Commission has approved. This interpretation of the law would continue to be applied if H. R. 7264 is enacted into law.

Section 14 of the Veterans Preference Act prohibits adverse actions against war veterans, except for reasons which promote the efficiency of the service, and gives them the right to appeal from such actions to the Commission. Under present law, the decisions of boards of review establishing efficiency ratings are not further reviewable by the Commission. If H. R. 7264 is enacted into law, all factors of adverse actions against war veterans would be reviewed on appeals to the Commission. To that extent, war veterans would receive some extension of benefits by the enactment of H. R. 7264.

By direction of the Commission:

Sincerely yours,

HARRY B. MITCHELL, *Chairman.*

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., May 12, 1950.

HON. TOM MURRAY,
*Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington, D. C.*

MY DEAR MR. MURRAY: Reference is made to your letter of March 24, 1950, requesting the comments of the Bureau of the Budget with respect to H. R. 7824, a bill to provide for the administration of performance-rating plans for certain officers and employees of the Federal Government, and for other purposes.

Section 3 of H. R. 7824 would require each department to establish and use one or more performance-rating plans. We believe the reference should be to performance "evaluation" plans rather than "ratings," and that the use of such plans should be optional with the departments. In the event a department elects to utilize such plan, the Civil Service Commission's approval should be a prerequisite.

Section 3 also provides that these performance-rating plans shall be used to recognize the merits of officers and employees and to recognize their contributions to efficiency and economy. We doubt the suitability of performance ratings for this purpose and believe the publicity attendant upon such recognition could better accompany awards under title X of the Classification Act of 1949. We further believe that a periodic evaluation of the performance of any officer or employee should be primarily for the purpose of bringing about improved performance and might lead to reassignments, training programs and the like rather than to public awards.

Although the performance-evaluation plan standards listed in section 5 are meritorious, we feel that under paragraph (5), the requirement that the officer and employee be "promptly notified of their performance rating" should be omitted. We believe that the remainder of paragraph (5), that "each officer and employee be kept currently advised of his performance," is desirable.

Section 6 would require each departmental performance-rating plan to include at least three summary ratings: "Satisfactory," "Unsatisfactory," and "Excellent." We believe experience with performance evaluation in the Federal Government suggests that no such summary ratings should be required. The fundamental requisite in performance evaluation of an employee by his supervisor is a sufficiently detailed review of the employee's performance to permit reaching discriminating conclusions as to desirable action to be taken to improve that performance. When performance evaluations are required to lead to the selection of a summary rating, the tendency has been to debase the quality of the comparison of actual job performance with performance standards. We believe that no summary ratings should be required in the statutes.

Section 7 (a) requires each department to afford its employees one impartial review of the performance evaluation made by his supervisor, and we believe this to be sound. However, section 7 (b), (c), and (d) provides a system of formal appeals with hearings, briefs, examination of information submitted by others, etc. All of this appeals system is apparently made necessary by the summary ratings. Many years of experience in the Federal service with efficiency rating appeals systems of one kind or another leads us to the conclusion that they, along with the summary-type ratings, are not in the interest of improved job performance. Following such formal adversary type of appeal proceedings, the supervisor and the employee find it difficult, perhaps impossible, to adjust to cooperative, productive working relationships. Just as we cannot support the summary types of ratings, we cannot support the formal appeals systems which these ratings lead employees and supervisors, in the interest of fairness and equity, to demand.

Section 9, if enacted, would remove from section 701 of the Classification Act of 1949 the requirement that the employee's service and conduct be certified as satisfactory as a condition to receiving the longevity step increase. Section 9, on the other hand, would continue the requirement that the employee have a current performance rating of "Satisfactory" or better. We believe that the requirement of certification of satisfactory service and conduct should be retained and that the requirement of a current performance rating of a "Satisfactory" (or "Good") should be omitted.

Section 10 would continue the requirement of section 703 of the Classification Act of 1949 of a "Satisfactory" (or "Good") performance rating for a longevity step increase. We believe that this requirement should be changed to a certification of satisfactory service and conduct. Along with other personnel actions which depend mainly on an efficiency rating, we believe this requirement promotes controversy and is of doubtful value in improving performance.

H. R. 7824 makes no reference to, and thus continues in force, the present statutory requirements basing reductions in compensation, demotions, and dismissals solely on efficiency ratings. We believe the summary types of performance ratings have become a substitute for penetrating performance analysis and feel that personnel actions, particularly those involving loss in pay or employment status, should be geared to a specific certification of the presence or absence of satisfactory service and conduct. Performance evaluations, to be fully effective in the Federal service, should become an instrument of supervisor-employee understanding and should be based chiefly, as section 5 of H. R. 7824 appears to

intend, on a thorough review of the employee's performance in comparison with well-understood and accepted standards of performance.

Since receiving your request for our comments, we have reviewed the report on H. R. 7824, submitted by the Civil Service Commission to your committee. We believe our views regarding H. R. 7824, coincide with those expressed by the Commission. We agree with the Civil Service Commission that their proposals for the establishment of a performance-reporting system are preferable to the proposals in H. R. 7824. However, should the committee decide that the recommendations of the Bureau of the Budget and the Civil Service Commission cannot be accepted, we feel that H. R. 7824, with the modifications proposed by the Civil Service Commission in its report, would result in some improvement over the present system.

Sincerely yours,

F. J. LAWTON, *Director.*

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
Washington, D. C., May 2, 1950.

HON. TOM MURRAY,
*Chairman, Committee on Post Office and Civil Service,
United States House of Representatives, Washington, D. C.*

MY DEAR MR. MURRAY: The Commissioners have for report H. R. 7824, Eighty-first Congress, a bill to provide for the administration of performance-rating plans for certain officers and employees of the Federal Government, and for other purposes.

The bill provides that each department of the Federal Government shall establish and use one or more plans for evaluating work performance of its officers and employees and that no officer or employee be rated for any purpose except under a plan approved by the Civil Service Commission. The municipal government of the District of Columbia is included in the definition of "department."

Section 5 requires, among other things, that the plan provide that performance requirements be made known to all officers and employees.

Section 6 provides that every plan have at least "Satisfactory," "Unsatisfactory," and "Excellent" ratings and that no employee be rated "Unsatisfactory" without a 90-day warning and a reasonable opportunity to demonstrate satisfactory performance.

Section 7 (a) provides for one impartial review of the rating of any officer or employee requesting it.

Section 7 (b) authorizes the establishment in each department of one or more boards of review to pass upon the merits of performance ratings. Each board would consist of three members, one designated by the head of the department, one designated by the employees of the department and one, serving as chairman, designated by the Civil Service Commission.

Section 7 (c) provides that upon written application to the chairman of the board of review any employee shall be entitled to a hearing upon any rating which is less than excellent.

Section 8 (a), (b), and (c) authorizes the Civil Service Commission to make regulations for administration of the act, to inspect administration of rating plans and to revoke its approval of any plan after notice to the department that the plan is not being administered according to the act and regulations. Section 8 (d) provides that after notice of revocation the department must use a rating plan prescribed by the Commission.

Section 9 amends section 701 of the Classification Act of 1949 in such a manner as to eliminate the requirement now in law that before an officer or employee may receive a within-grade increase in salary it must be shown, "That the services and conduct of such officer or employee are certified as being otherwise satisfactory by the department."

There are a number of classes of employees of the District of Columbia government to whom the provisions of the act should not in any event be applied. These classes are those mentioned in paragraphs 4, 5, and 7 of section 202 of the Classification Act of 1949.

One of the classes to whom the act should not apply are teachers and school officers under the Board of Education. The Superintendent of Schools has reported that section 9 of H. R. 7824 would be in direct conflict with section 7 of the District of Columbia Teachers' Salary Act of 1947 which reads as follows:

"SEC. 7. On July 1, 1948, and on the first day of each fiscal year thereafter, if his work is satisfactory, every permanent teacher, school officer, or other employee

except as provided in section 2 of this Act, shall receive an annual increase in salary within his salary class or position as hereinbefore provided without action of the Board of Education, except that after a teacher, school officer, or other employee has received five annual increases he shall receive no further increases until he is declared eligible therefor by the Board of Education on the basis of such evidence of successful teaching in the case of a teacher or outstanding service in the case of a school officer or other employee and of increased professional attainments as the Board of Education may prescribe, and that after having been declared so eligible and after having received five more annual increases, he shall receive no further increases until he is declared eligible therefor by the Board of Education on the basis of such evidence of successful teaching in the case of a teacher or outstanding service in the case of a school officer or other employee and of increased professional attainments as the Board of Education may prescribe. A program of in-service training under regulations to be formulated by the Board of Education shall be established to promote continuous professional growth among the teachers, school officers, and other employees, and such teachers, school officers, and other employees shall annually report evidence of participation in the in-service training program thus established and other evidence of professional growth and accomplishment."

He also states that ever since enactment in 1906 of the organic act for the District schools the Board of Education has operated its own rating system and the action of the Board has been final insofar as certificated employees are concerned. The Superintendent of Schools has recommended that the employees of the Board of Education whose salaries are fixed by the District of Columbia Teachers' Salary Act of 1947 as amended, be exempt from the provisions of H. R. 7824.

The Major and Superintendent of Police and the Chief Engineer of the Fire Department of the District of Columbia, respectively, have indicated their very strong opposition to the inclusion of the uniformed forces of the Police and Fire Departments within the scope of the bill. Both departments have statutory trial boards for enforcing discipline and compliance with the rules and regulations for the guidance of the officers and members of the respective forces. A copy of the reports of the Major and Superintendent of Police and of the Chief Engineer of the Fire Department are enclosed.

The District of Columbia has a class of employees who are compensated under a wage scale fixed by the District Commissioners under authority granted by Congress. There is a very large turn-over in this class of employees known as per diem employees and it is the opinion of District authorities that it would not be practicable to apply the provisions of H. R. 7824 to these employees.

The Commissioners are constrained to recommend adverse action on H. R. 7824 for the reason that the present systems of rating employees of the District are satisfactory.

However should the committee decide to take favorable action on the bill the Commissioners recommend that the following amendment be adopted: Page 2, following line 9, insert the following subsection:

"(c) This Act shall not apply to the following officers and employees:

"(1) teachers, school officers, and employees of the Board of Education of the District of Columbia, whose compensation is fixed under the District of Columbia Teachers' Salary Act of 1947, as supplemented by Public Law 151, Eighty-first Congress, approved June 30, 1949:

"(2) the chief judge and the associate judges of the Municipal Court of Appeals for the District of Columbia, and of the Municipal Court for the District of Columbia and the judges of the Juvenile Court of the District of Columbia;

"(3) officers and members of the Metropolitan Police, the Fire Department of the District of Columbia, the United States Park Police, and the White House Police;

"(4) employees in recognized trades or crafts, or other skilled mechanical crafts or in unskilled, semiskilled, or skilled manual labor occupations whose compensation is fixed and adjusted from time to time by a wage board and approved by the Commissioners of the District of Columbia."

Time has not permitted the ascertainment of advice from the Bureau of the Budget as to the relationship of this report to the program of the President.

Respectfully,

JOHN RUSSELL YOUNG,
President, Board of Commissioners, District of Columbia.

CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 701 OF THE CLASSIFICATION ACT OF 1949

SEC. 701. **[(a)]** Each officer or employee compensated on a per annum basis, and occupying a permanent position within the scope of the compensation schedules fixed by this Act, who has not attained the maximum scheduled rate of compensation for the grade in which his position is placed, shall be advanced in compensation successively to the next higher rate within the grade at the beginning of the next pay period following the completion of (1) each fifty-two calendar weeks of service if his position is in a grade in which the step-increases are less than \$200, or (2) each seventy-eight calendar weeks of service if his position is in a grade in which the step-increases are \$200 or more, subject to the following conditions:

(A) That no equivalent increase in compensation from any cause was received during such period, except increase made pursuant to section 702 or 1002;

(B) **[(That his current efficiency rating is "Good" or better than "Good"; That he has a current performance rating of "Satisfactory" or better; and**

[(C)] That the service and conduct of such officer or employee are certified as being otherwise satisfactory by the department; and **]**

[(D)] (C) That the benefit of successive step-increases shall be preserved, under regulations issued by the Commission, for officers and employees whose continuous service is interrupted in the public interest by service with the armed forces or by service in essential non-Government civilian employment during a period of war or national emergency.

[(b)] The term "good" as used in this title shall have the same meaning as when used in the systems of efficiency rating established pursuant to title IX of this Act. **]**

SECTION 702 (A) OF THE CLASSIFICATION ACT OF 1949

SEC. 702. (a) Within the limit of available appropriations and in accordance with standards promulgated by the Commission, each department is authorized, subject to prior approval by the Commission (except as provided in subsection (b)), to make additional step-increases as a reward for superior accomplishment, but no officer or employee shall be eligible for more than one such additional step-increase within each of the time periods specified in section 701 **[(a)]**.

SECTION 703 (B) (2) OF THE CLASSIFICATION ACT OF 1949

(2) No officer or employee shall receive a longevity step-increase unless his current **[(efficiency rating is "good" or better than "good", and his service and conduct are certified as being otherwise satisfactory by the department.]** *performance rating is "satisfactory" or better.*

SECTION 4 OF THE ACT OF AUGUST 23, 1912 (37 STAT. 413)

[(SEC. 4. The Civil Service Commission shall, subject to the approval of the President, establish a system of efficiency ratings for the classified service in the several executive departments in the District of Columbia based upon records kept in each department and independent establishment with such frequency as to make them as nearly as possible records of fact. Such system shall provide a minimum rating of efficiency which must be attained by an employee before he may be promoted; it shall also provide a rating below which no employee may fall without being demoted; it shall further provide for a rating below which no employee may fall without being dismissed for inefficiency. All promotions, demotions, or dismissals shall be governed by provisions of the civil-service rules. Copies of all records of efficiency shall be furnished by the departments and independent establishments to the Civil Service Commission for record in accordance with the provisions of this section: Provided, That in the event of reductions being made in the force in any of the executive departments no honorably

discharged soldier or sailor whose record in said department is rated good shall be discharged or dropped, or reduced in rank or salary.

Any person knowingly violating the provisions of this section shall be summarily removed from office, and may also upon conviction thereof be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year.]

THE ACT OF JULY 31, 1946 (5 U. S. C. 669a)

[That no employee in any civilian position in the executive branch of the Government of the United States, other than an employee in or under the field service of the Post Office Department or any employee of the Tennessee Valley Authority, shall be rated as to efficiency except under a system of efficiency ratings approved by the Civil Service Commission, and that the provisions of section 9 of the Classification Act of 1923, as amended, or as may be hereafter amended, shall apply to all efficiency ratings under rating systems approved by the Civil Service Commission.

[The Civil Service Commission is hereby authorized to make and publish rules and regulations for the administration of the provisions of this Act.

[SEC. 2. The provisions of this Act shall be effective upon enactment, except that, with respect to employees in the field services whose positions are not subject to the Classification Act of 1923, as amended, such of the provisions of section 9 of the Classification Act of 1923, as amended, as require the Civil Service Commission to approve reductions in compensation and dismissals for inefficiency, or confer the right to a hearing and review of efficiency ratings by boards of review, shall not become effective until such boards of review in the field services are established as provided in section 7 of the Act of November 26, 1940 (54 Stat. 1215), under regulations prescribed by the Civil Service Commission, with the approval of the President.]

TITLE IX OF THE CLASSIFICATION ACT OF 1949

[TITLE IX—EFFICIENCY RATINGS

[SEC. 901. (a) The Commission shall establish and may revive uniform systems of efficiency rating for the appraisal of the service of officers and employees in positions in the classes and grades provided by this Act. Such systems shall set forth degrees of efficiency which shall constitute ground for (1) the recognition of outstanding performance, (2) the granting of increases in the rate of compensation, (3) continuance at the existing rate of compensation, (4) decrease in the rate of compensation of officers and employees who at the time are above the middle rate for the grade in which their positions are placed, and (5) removal from the position or dismissal from the service.

[(b) Each department shall rate in accordance with such systems the efficiency of each officer or employee under its jurisdiction. Ratings shall be open to inspection by representatives of the Commission and by officers and employees of the department in accordance with regulations issued by the Commission. Each officer or employee shall have the right to inspect the detailed report of his own rating.

[(c) Reductions in compensation, removals from positions, or dismissals from the service shall be made by the departments whenever the efficiency ratings warrant.

[SEC. 902. (a) There shall be established in each department one or more boards of review each of which shall be composed of three members. One member, who shall serve as chairman, shall be designated by the Commission; one member shall be designated by the department concerned; and one member shall be designated by the officers and employees of the department concerned in such manner as may be determined by the Commission.

[(b) Alternate members shall be designated in the same manner as their respective principal members. The boards of review shall meet at the call of their respective chairmen for the purpose of considering and passing upon the merits of such efficiency ratings assigned to officers and employees as may be submitted to such boards of review as hereinafter provided.

[(c) Any officer or employee shall, upon written request to the chairman of the appropriate board of review of his department, be entitled as a matter of right to a hearing and a review by such board of review of his efficiency rating. At the hearing the officer or employee, and such representative as he may designate, and such representatives of the department as may be designated by the depart-

ment, shall be afforded an opportunity, (1) to submit orally or in writing any information deemed by the board of review to be pertinent to the case, and (2) to hear or examine, and reply to, any such information submitted to such board by other parties. After any such hearing the board may make such adjustment in any such efficiency rating as it may find to be proper.

[SEC. 903. The Commission shall make a study of efficiency rating systems in the Federal service and submit a report to Congress on or before February 1, 1950, setting forth its findings as to the operation and administration of such systems and such recommendations (including specific recommendations for legislation) as it may deem advisable.]

APPENDIX I

HISTORY OF THE EFFICIENCY-RATING SYSTEM IN THE FEDERAL SERVICE

There are records of efficiency-rating systems in Government departments as early as 1887, when they were required to be used in promotion examinations. Presidents Cleveland and Benjamin Harrison both made efforts to have efficiency ratings made so that advancements to higher-paying positions would be based on efficiency. A committee, appointed by President Theodore Roosevelt in 1905, recommended the preparation of semiannual efficiency ratings. It was not until 1912, however, that any serious attempt was made to provide for uniform systems of efficiency ratings.

By the act of August 23, 1912 (37 Stat. 413, 414), the Civil Service Commission was directed to establish uniform systems of efficiency ratings for all departmental services in the District of Columbia, and heads of departments were ordered to rate employees in keeping with such systems.

Under this authority, the Division of Efficiency of the Commission assisted in planning and installing a rating system in the Division of Dead Letters in the Post Office Department. Shortly thereafter, in 1914, the system was modified and extended to all departmental activities of the Post Office Department.

The Division of Efficiency of the Commission became an independent Bureau of Efficiency by the act of February 28, 1916 (39 Stat. 15), and continued cooperative efforts with different departments in the establishment of rating systems.

On October 24, 1921, the President directed the Bureau of Efficiency to "prescribe a system of rating of employees of the classified services of the Federal Government in the District of Columbia." Heads of departments and independent establishments were directed to apply this system to all employees (Executive Order No. 3567).

Section 9 of the Classification Act of 1923 (42 Stat. 1488), authorized the Personnel Classification Board to review and revise uniform systems of efficiency ratings, and established standards for such rating systems. The law required a rating level which must be attained to receive salary advancement within a grade, a rating level to permit retention in the grade without advancement or reduction in pay, a rating level to require reduction in pay within the grade, and a rating level which would require dismissal or demotion in grade. Dismissals, demotions, and pay reductions required by ratings were to be made by heads of departments, subject to the approval of the Board.

By the act of June 20, 1932 (47 Stat. 416), the functions, powers, and duties of the Personnel Classification Board were transferred to the Civil Service Commission, effective October 1, 1932. The following year the Bureau of Efficiency was abolished by the act of March 3, 1933 (47 Stat. 1519), and its property and records were transferred to the Bureau of the Budget.

Section 7 of the Ramspeck Act of November 26, 1940 (54 Stat. 1215), authorized the establishment of independent boards of review to hear and decide efficiency-rating appeals.

Efficiency ratings for employees in the field services were first required by the act of August 1, 1941 (55 Stat. 614), which directed the Commission and heads of departments and independent establishments to apply the efficiency-rating provisions of the Classification and Ramspeck Acts, "as nearly as practicable," to all employees paid under the compensation schedules of the Classification Act.

Efficiency ratings as a factor in reductions in force had been previously authorized by Executive orders, but their use was required by law under the terms of section 12 of the Veterans' Preference Act of June 27, 1944 (58 Stat. 387).

The act of July 31, 1946 (60 Stat. 751), requires Civil Service Commission approval for any efficiency-rating system used for rating employees in the execu-

tive branch of the Government, except the Tennessee Valley Authority and the field service of the Post Office Department.

The first efficiency-rating system established under the authority of the Classification Act was developed around a "graphic rating scale." Supervisors made check marks in black ink indicating their opinion of services rendered under different elements or factors on graduated scales. These checks marks were reviewed by higher-level supervisors who concurred in the initial marks or indicated differences of opinion by check marks in red ink. The rating forms were then routed to central offices, known as boards of review, where codes were applied to produce a final rating on a percentage basis, specific to two decimal points. These boards of review were also authorized, in their judgment, to adjust ratings to conform to a predetermined pattern of distribution.

This rating system was devised to eliminate the personal element from the ratings. The supervisor did not make the rating—he merely reported his opinion of performance under a group of factors which applied to the employee's position. The reviewing supervisor did not make or approve a rating—he merely reviewed the initial supervisor's judgment as to performance under the various factors. The board of review did not use personal opinion but merely applied a code of weights to the opinions of the supervisors.

During the 10 years of its use, the graphic scale system of rating was very unpopular. No employee was able to obtain an explanation of his rating from any of his supervisors. Supervisors had difficulty in advising employees how to improve performance in order to receive a better rating. Everyone was suspicious of the results at every rating period.

After a series of conferences with representatives of all departments and independent establishments, the Commission revised the efficiency-rating system in 1935. In every possible way, the revised system was the direct opposite of the graphic rating scale system. Factors were grouped under three headings: "Quality of performance," "Productiveness," and "Qualifications shown on job." Each factor was marked with a "plus" for strong, "minus" for weak, or a check mark if "neither strong nor weak." Numerical ratings were assigned under each heading; 1 or 2 if "excellent," 3 or 4 if "very good," 5 or 6 if "good," 7 or 8 if "fair," and 9 or 10 if "unsatisfactory." The numerical ratings were independent of the factor marks. The final rating was the sum of the three numerical ratings. Adjective ratings were as follows: 3 to 7 "excellent," 8 to 13 "very good," 14 to 19 "good," 20 to 24 "fair," and 25 to 30 "unsatisfactory." There were no definitions. No adjustments were permitted to reach a desired pattern of distribution.

This system also became unpopular because of the absence of any guide lines to indicate what kind of performance was excellent, very good, good, fair, or unsatisfactory. There was almost no basis upon which reviewers of ratings could discover differences of rating standards. Employees soon learned that what was considered as "Good" performance in one department was rated as "Excellent" in a different department.

Numerous changes have been made since 1940 in the rating system for employees in Classification Act positions. Rating elements have been made more specific. Supervisory judgments are reported on the rating elements by the use of symbols designating three evaluation levels. Plus marks now indicate outstanding performance and not merely a show of strength. A check mark signifies adequate performance and not "Neither strong nor weak." Numerical ratings were modified and then eliminated. Final adjective ratings are keyed to the element marks by a definite standard.

The uniform efficiency rating system has been devised by the Civil Service Commission (with the cooperation of the Federal agencies through the Federal Personnel Council), and applies to all Federal employees occupying positions paid under the compensation schedules of the Classification Act.

Ratings are prepared initially by the immediate supervisor, reviewed by higher supervisors, and reviewed and approved by an efficiency rating committee which exercises the authority of the head of the agency. Regular efficiency ratings are made on a standard form which contains 20 factors that are applicable to non-supervisory positions and 11 factors that are available for administrative, planning, and supervisory positions. Only those factors which pertain to the position of the employee are used for the appraisal of that employee's work performance. In a few experiments now being conducted with the approval of the Commission, the work operations or the duties of the position are used instead of the factors listed on the rating form.

After the appropriate factors are selected for a particular position, the especially important ones are shown by underlining. Then a symbol is placed in front of

each pertinent factor indicating whether the employee's performance has (/) met, (+) exceeded, or (—) failed to measure up to job requirements. On the basis of these evaluations, a final adjective rating is assigned.

Five adjective ratings are provided: Excellent, very good, good, fair, and unsatisfactory. Each employee is notified of the particular adjective rating assigned by means of a standard form which tells the significance and meaning of the rating and what initial step he may take if he is not satisfied that the rating is correct. Under the uniform plan, the employee has the right to see his own rating form, to know the ratings of other employees of his agency, and to appeal his rating to a board of review.

Up to January 15, 1948, three types of ratings were provided: Regular, probational, and special. Regular ratings were to be made as of March 31 of each year, probational ratings at the end of the tenth month of the probational period, and special ratings when there was no current appropriate rating in record and one was needed for within-grade salary advancement or reduction in force. After the cessation of hostilities, when the size of the Government service was being reduced rapidly, a great many special ratings were made which were based on short periods of service. Consideration of this problem resulted in a change in the uniform efficiency-rating system which eliminated special ratings. Effective January 15, 1948, the system provides for two types of ratings: Entrance and regular. An entrance rating is given when an employee is appointed or changes his position. A regular rating is assigned when the employee has been in his position for 6 months, and annually thereafter on March 31 or in accordance with an agency plan approved by the Commission which might provide a different date or anniversary ratings for individual employees.

Another of the recent revisions of the uniform system incorporates the principle that ratings of "Fair" or "Unsatisfactory" should not be assigned unless the employee was given a warning 3 to 6 months prior to the rating, specifically informing him (a) how his performance fails to meet requirements, (b) how he may improve his performance, (c) that he has the opportunity to bring about such improvement, and (d) that he will receive a "Fair" or "Unsatisfactory" rating if his performance does not improve to meet required standards.

Prior to 1941, an employee who was dissatisfied with his efficiency rating could appeal only to his supervisors who had approved the rating. If any hearing was held, it was before an official, or a board of officials, in his own agency. However, the act of November 26, 1940, authorized the establishment of boards of review to consider efficiency-rating appeals.

This act provided for boards having three members—the chairman to be designated by the Civil Service Commission, one member to be designated by the head of the department, and the third member to be designated by the employees of the department in the manner determined by the Commission. Employees are entitled, as a matter of right, to a hearing and review of their efficiency ratings. They have the right to be represented, to submit information, and to hear, examine, and reply to information presented by other persons at the hearing.

Boards of review were established and began operating in 1941. At that time, only departmental-service employees whose positions were under the Classification Act could appeal to boards of review. This right was extended, insofar as practicable, to Classification Act employees in the field service by the act of August 1, 1941. Regulations were issued in 1942, whereby field service employees whose positions were under the Classification Act were permitted to appeal in writing even though no boards were established in the field service. The departmental service boards took care of these appeals. The right of appeal was extended to other employees by the act of July 31, 1946, even though their positions were not subject to the Classification Act. This law, however, specifically exempted employees in the field service of the Post Office Department and all employees of the Tennessee Valley Authority. The right of a hearing and review for field-service employees whose positions were not under the Classification Act was postponed until field boards of review were established. In 1948, the Commission appointed chairmen of boards in its regional offices and field boards began to be established. A number of them are now in operation.

Efficiency ratings are used as a basis for within-grade pay increases. Title VII of the Classification Act of 1949 provides for successive salary advancements based on several factors, one of which is efficiency ratings. Ratings of "Good" or better permit periodic salary advancement by successive steps up to and including the maximum rate for the grade. Periodic within-grade salary advancements under the law and regulations are made by departments and agencies without review by the Commission.

Efficiency ratings are likewise a factor in calculating the retention credits which are used in determining the order in which employees are affected by reduction in force.

Reductions in compensation, demotions, and dismissals are actions that flow from efficiency ratings of below "Good" and are subject to approval by the Commission in the cases of all graded and ungraded employees in the departmental and field services, except employees of the Tennessee Valley Authority and the field service of the Post Office Department. Accordingly, specific procedures have been issued, governing salary reductions, demotions, and dismissals by heads of departments based on efficiency ratings. These procedures do not apply to employees serving probational periods.

Under these procedures, the employee is given a written notice, at least 30 calendar days in advance of the proposed effective date of the proposed action, stating (1) specifically what the performance requirements of his position are and how he failed to meet these performance requirements; (2) the nature and date of the proposed action, and, in any case of reduction in pay, the grade and title of the position and the new salary rate; and (3) that he may make a written reply to the agency within a specified period which shall be not less than one calendar week from the date of receipt of the notice, stating why the action should not be taken. The agency is required to consider the employee's answer and make such changes and adjustments in the efficiency rating and in the action resulting therefrom as are deemed appropriate. If these procedures are followed, the department's action is approved. In the case of a veteran, the approval is subject to any appeal by the employee under section 14 of the Veterans' Preference Act of 1944. If the employee has appealed his efficiency rating to a board of review, approval is subject to the board's decision on the merits of the rating.



81ST CONGRESS
2^D SESSION

H. R. 7824

[Report No. 2162]

IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 1950

Mr. MURRAY of Tennessee introduced the following bill; which was referred to the Committee on Post Office and Civil Service

MAY 29, 1950

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

A BILL

To provide for the administration of performance-rating plans for certain officers and employees of the Federal Government, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Performance Rating Act
4 of 1950".

5 SEC. 2. (a) For the purposes of this Act, the term
6 "department" includes (1) the executive departments; (2)
7 the independent establishments and agencies in the executive
8 branch, including corporations wholly owned by the United
9 States; (3) the Administrative Office of the United States
10 Courts; (4) the Library of Congress; (5) the Botanic

1 Garden; (6) the Government Printing Office; (7) the
2 General Accounting Office; and (8) the municipal govern-
3 ment of the District of Columbia.

4 ~~(b) This Act shall not apply to the Tennessee Valley~~
5 ~~Authority, the field service of the Post Office Department,~~
6 ~~the Department of Medicine and Surgery of the Veterans'~~
7 ~~Administration, the Foreign Service of the United States~~
8 ~~under the Department of State, or to employees in the~~
9 ~~Territories and possessions of the United States.~~

10 *(b) This Act shall not apply to—*

11 *(1) the Tennessee Valley Authority;*

12 *(2) the field service of the Post Office Department;*

13 *(3) physicians, dentists, nurses, and other employees*
14 *in the Department of Medicine and Surgery in the*
15 *Veterans' Administration whose compensation is fixed*
16 *under Public Law 293, Seventy-ninth Congress, ap-*
17 *proved January 3, 1946;*

18 *(4) the Foreign Service of the United States under*
19 *the Department of State;*

20 *(5) Production credit corporations;*

21 *(6) Federal intermediate credit banks;*

22 *(7) Federal land banks;*

23 *(8) Banks for cooperatives;*

24 *(9) officers and employees of the municipal govern-*
25 *ment of the District of Columbia whose compensation*

1 *is not fixed by the Classification Act of 1949 (Public*
2 *Law 429, Eighty-first Congress, approved October 28,*
3 *1949).*

4 SEC. 3. For the purpose of recognizing the merits of
5 officers and employees, and their contributions to efficiency
6 and economy in the Federal service, each department shall
7 establish and use one or more performance-rating plans for
8 evaluating the work performance of such officers and
9 employees.

10 SEC. 4. No officer or employee of any department shall
11 be given a performance rating, regardless of the name given
12 to such rating, and no such rating shall be used as a basis
13 for any action, except under a performance-rating plan
14 approved by the Civil Service Commission as conforming
15 with the requirements of this Act.

16 SEC. 5. Performance-rating plans required by this Act
17 shall be as simple as possible, and each such plan shall
18 provide—

19 (1) that proper performance requirements be made
20 known to all officers and employees;

21 (2) that performance be fairly appraised in rela-
22 tion to such requirements;

23 (3) for the use of appraisals to improve the effec-
24 tiveness of employee performance;

1 (4) for strengthening supervisor-employee rela-
2 tionships; and

3 (5) that each officer and employee be kept cur-
4 rently advised of his performance and promptly notified
5 of his performance rating.

6 SEC. 6. Each performance-rating plan shall provide for
7 ratings representing at least (1) satisfactory performance,
8 corresponding to an efficiency rating of "good" under the
9 Veterans' Preference Act of 1944, as amended, and under
10 laws superseded by this Act; (2) unsatisfactory perform-
11 ance, which shall serve as a basis for removal from the posi-
12 tion in which such unsatisfactory performance was rendered;
13 and (3) excellent performance, which shall be accorded
14 only when all aspects of performance not only exceed normal
15 requirements but are outstanding and deserve special com-
16 mendation. No officer or employee shall be rated unsatis-
17 factory without a ninety-day prior warning and a reasonable
18 opportunity to demonstrate satisfactory performance.

19 SEC. 7. (a) Upon the request of any officer or em-
20 ployee of a department, such department shall provide one
21 impartial review of the performance rating of such officer
22 or employee.

23 (b) There shall be established in each department one
24 or more boards of review for the purpose of considering and
25 passing upon the merits of performance ratings under rating

1 plans established under this Act. Each board of review
2 shall be composed of three members. One member shall be
3 designated by the head of the department. One member
4 shall be designated by the officers and employees of the
5 department in such manner as may be provided by the
6 Civil Service Commission. One member, who shall serve
7 as chairman, shall be designated by the Civil Service Com-
8 mission. Alternate members shall be designated in the
9 same manner as their respective principal members.

10 (c) In addition to the performance-rating appeal pro-
11 vided in subsection (a), any officer or employee with a
12 current performance rating of less than excellent, upon writ-
13 ten appeal to the chairman of the appropriate board of
14 review established under subsection (b), shall be entitled,
15 as a matter of right, to a hearing and decision on the merits
16 of the appealed rating.

17 (d) At such hearing the appellant, or his designated
18 representative, and representatives of the department shall
19 be afforded an opportunity to submit pertinent information
20 orally or in writing, and to hear or examine, and reply to,
21 information submitted by others. After such hearing, the
22 board of review shall confirm the appealed rating or make
23 such change as it deems to be proper.

24 SEC. 8. (a) The Civil Service Commission is authorized

1 to issue such regulations as may be necessary for the admin-
2 istration of this Act.

3 (b) The Commission shall inspect the administration
4 of performance-rating plans by each department to deter-
5 mine compliance with the requirements of this Act and
6 regulations issued thereunder.

7 (c) Whenever the Commission shall determine that a
8 performance-rating plan is ~~not being administered in com-~~
9 ~~pliance with~~ *does not meet the requirements of* this Act and
10 the regulations issued thereunder, the Commission may, after
11 notice to the department, giving the reasons, revoke its
12 approval of such plan.

13 (d) After such revocation, such performance-rating
14 plan and any current ratings thereunder shall become inop-
15 erative, and the department shall thereupon use a perform-
16 ance-rating plan prescribed by the Commission.

17 SEC. 9. (a) Section 701 of the Classification Act of
18 1949 (Public Law 429, Eighty-first Congress, approved
19 October 28, 1949) is hereby amended to read as follows:

20 "SEC. 701. Each officer or employee compensated on
21 a per annum basis, and occupying a permanent position
22 within the scope of the compensation schedules fixed by
23 this Act, who has not attained the maximum scheduled rate
24 of compensation for the grade in which his position is placed,

1 shall be advanced in compensation successively to the next
2 higher rate within the grade at the beginning of the next
3 pay period following the completion of (1) each fifty-two
4 calendar weeks of service if his position is in a grade in
5 which the step-increases are less than \$200, or (2) each
6 seventy-eight calendar weeks of service if his position is
7 in a grade in which the step-increases are \$200 or more,
8 subject to the following conditions:

9 “(A) That no equivalent increase in compensation
10 from any cause was received during such period, except
11 increase made pursuant to section 702 or 1002;

12 “(B) That he has a current performance rating of
13 ‘Satisfactory’ or better; and

14 “(C) That the benefit of successive step-increases
15 shall be preserved, under regulations issued by the Com-
16 mission for officers and employees whose continuous
17 service is interrupted in the public interest by service
18 with the armed forces or by service in essential non-
19 Government civilian employment during a period of war
20 or national emergency.”

21 (b) Section 702 (a) of such Act is amended by striking
22 out “section 701 (a)” and inserting in lieu thereof “section
23 701”.

24 SEC. 10. Section 703 (b) (2) of title VII of the

1 Classification Act of 1949 (Public Law 429, Eighty-first
2 Congress, approved October 28, 1949) is hereby amended
3 to read:

4 “(2) No officer or employee shall receive a longevity
5 step-increase unless his current performance rating is ‘satis-
6 factory’ or better.”

7 SEC. 11. The following Acts or parts of Acts are hereby
8 repealed:

9 (1) Section 4 of the Act of August 23, 1912 (37 Stat.
10 413) ;

11 (2) The Act of July 31, 1946 (60 Stat. 751; 5
12 U. S. C. 669a) :

13 (3) Title IX of the Classification Act of 1949 (Public
14 Law 429, Eighty-first Congress) .

15 SEC. 12. This Act shall take effect ninety days after the
16 date of its enactment.

17 SEC. 13. There are hereby authorized to be appropriated
18 such sums as may be necessary to carry out the provisions
19 of this Act.

20 SEC. 14. All laws or parts of laws inconsistent herewith
21 are hereby repealed to the extent of such inconsistency.

81ST CONGRESS
2^D Session

H. R. 7824

[Report No. 2162]

A BILL

To provide for the administration of performance-rating plans for certain officers and employees of the Federal Government, and for other purposes.

By Mr. MURRAY of Tennessee

MARCH 23, 1950

Referred to the Committee on Post Office and Civil Service

MAY 29, 1950

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

The men were advised by the officers of the various railway companies by whom they were employed that they would be enlisted in the United States Army and given commissions with officer's rank, the enlistment to be for the period of the war. Many of these men were of draft age and applied for and were granted exemption from the draft on the ground that they were duly enrolled in the military service. In such cases colonel in charge of the Russian Railway Service Corps certified to the various draft boards that these men were now in the military service of the United States in the Russian Railway Service Corps, that the period of commission was 5 years, and that the acceptance of the commission took place before the officer received notice from the local board to appear for examination. A number of these men were in officers training camps at the time of their commission, and a number of them had opportunity to become commissioned officers in the Engineering Corps of the Regular Army, but believed, and had good cause to believe, that they were duly properly commissioned in the United States Army. The following commission was in fact issued to them:

"You are hereby informed that the President of the United States has appointed you ——— Lieutenant in the Russian Railway Service Corps, organized under authority of the President of the United States, to rank as such from November 1, 1917. Immediately on receipt herewith, return the acceptance herewith enclosed, properly filled in, subscribed and attested.

"JOSEPH F. JANDA,
"Adjutant General."

Another instance has been called to our attention in the record of the hearing before the subcommittee of the Committee on Military Affairs of the United States Senate, where at least one of the men of this corps received a commission on the following form:

"You are hereby informed that the President of the United States has appointed you a captain in the Russian Railway Service Corps in military service of the United States. This notice of appointment will be regarded as a commission for all purposes."

Military uniforms and equipment were issued to these men by the War Department, with the insignia of the Engineering Corps on one side of the collar, the letters "RRS" on the other. The uniform was the regulation officers uniform with the insignia pertaining to their particular rank, identical with the insignia used by officers of the United States Army. They were drilled and instructed as officers and performed the duties of officers in the armies of the United States and were treated as such by the officers and enlisted men of the Expeditionary Forces and by all foreign officers. They customarily carried side arms and while on duty guarding bridges and tunnels were armed with rifles. To this corps was assigned the duty of maintaining the lines of communication supporting the eastern front in the general field of war, while corresponding units organized by the same agencies were sent to France for similar duty on the western front. Both forces were in the exclusive service and control of the United States.

The Russian Service Corps was distributed along the entire length of the Trans-Siberian Railway, some 4,000 miles in length. These men assisted in the movement of troops, supplies, and ordnance of the Allies. They installed lines of communication and introduced improved methods and devices. When the Kerenski government was compelled to fall back, they assisted in the movement of some 500 trains of refugees; always were in constant danger of uprising behind the lines and of brigands who were continually cutting the railway lines and wrecking trains. Their work was creditably performed and warmly commended and a number of their officers were decorated by foreign governments.

Your committee is convinced of the sincerity of these men; that they believed at the time they received their commissions that they were being commissioned in the United States Army as a part of the Armed Forces of the country. And, we further believe that this belief was justified by representations made to them by representatives of the United States Government.

Your committee, therefore, recommends that the National Executive Committee report the foregoing findings to the next national convention of the American Legion with the recommendation that said convention favor the passage of legislation now pending in Congress, known as S. 2320, as amended, and that our national legislative committee give to the legislative committee of the Russian Railway Service Corps every assistance in their power.

Respectfully submitted.

Mr. GEORGE FISK,
Missouri.

Mr. L. R. PROBST,
Wyoming.

Mr. G. V. BARRON,
Minnesota, Chairman.

PREPARATORY COMMISSION FOR THE INTERNATIONAL REFUGEE ORGANIZATION

The Clerk called the bill (H. R. 5863) for refund of customs duties to the Preparatory Commission for the International Refugee Organization.

Mr. SADLAK. Mr. Speaker, in view of the fact that the gentleman from Iowa [Mr. CUNNINGHAM] asked to have this bill passed over without prejudice the last time it was called, I ask unanimous consent that it again be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

MULTIPURPOSE TUNNEL THROUGH LAGUNA MOUNTAINS, SAN DIEGO COUNTY, CALIF.

The Clerk called the bill (H. R. 6339) to authorize a survey to determine the feasibility and advisability of constructing a multipurpose tunnel through the Laguna Mountains in San Diego County, Calif.

Mr. BYRNES of Wisconsin. Mr. Speaker, reserving the right to object, I would like to inquire of the author of the legislation, the gentleman from California, whether my understanding is correct that should this authorization become law, it will not be considered in any way as a precedent which would require the Congress in the future to go ahead with a larger survey and then finally possibly to go ahead with actual construction as a Federal project.

Mr. McKINNON. The original survey would determine from there on as to its practicality. This particular request is in no sense an attempt merely to get the Government to go ahead with an unworthy project.

Mr. BYRNES of Wisconsin. What I would like to know particularly is whether or not the author of this bill and the committee are going to attempt to use affirmative action on this legislation as a precedent for the establishment of Federal responsibility for going ahead with the construction, should it be found to be practical.

Mr. McKINNON. That is not the intent of this bill, may I say to the gen-

tleman, because I think it is understood in this case—in the case of this survey—that the Government of the United States is acting in the interest of our national defense. I would not want to preclude further action by the Government in participating in the construction of the project.

Mr. BYRNES of Wisconsin. In other words, the matter of the larger survey and the matter of actual construction as a Federal project will rest on their own feet and on their own merits?

Mr. McKINNON. That is correct.

Mr. MURDOCK. Mr. Speaker, further reserving the right to object, I would like to ask the author of the bill a few questions. Do I understand that there is as a part of this survey and aqueduct as well as a roadway and a railway?

Mr. McKINNON. That is correct.

Mr. MURDOCK. Do I understand that San Diego has a contract with the United States Government for some water out of the Colorado River?

Mr. McKINNON. That is correct.

Mr. MURDOCK. And that San Diego is now getting a portion of that contract?

Mr. McKINNON. We are taking a portion of our water out of the Colorado River now.

Mr. MURDOCK. Can the gentleman say whether the contract that the city of San Diego has is a higher or lower priority for water out of the river?

Mr. McKINNON. Our priority out of the river is rather low, comparatively speaking.

Mr. MURDOCK. It is not as high as some agricultural agencies who are also contractors?

Mr. McKINNON. I understand there are a couple of agricultural agencies that have a higher priority than San Diego.

Mr. MURDOCK. Does not the gentleman believe that the highest beneficial use of water is for human consumption, especially in the case of San Diego, where there is a naval base that that is the case?

Mr. McKINNON. Yes. That would be my opinion.

Mr. MURDOCK. I want to say, Mr. Speaker, that, speaking for myself, I feel that municipal use of water for human consumption is the highest beneficial use, especially where it is used for the armed services as a part of our national defense, and ought to have the highest priority rating. I wanted to put that in the Record, and if the gentleman has any comments on it I would like to hear them.

Water for drinking purposes stands first; for agricultural purposes second, and for power production stands third, and in that order according to the spirit of the water law in the arid and semiarid West. Any other arrangement should be viewed with suspicion and subject to correction.

Mr. CRAWFORD. Mr. Speaker, further reserving the right to object, I would like to ask the gentleman from California a few questions.

Will the gentleman from California tell the Members of the House whether or not San Diego at the present time draws its supply of water, that portion which it takes from the Colorado River,

through metropolitan water district aqueduct that runs from Parker Dam into Los Angeles?

Mr. McKINNON. The entire supply that San Diego is drawing out of the Colorado River is brought through the metropolitan aqueduct; yes, sir.

Mr. CRAWFORD. Did I understand the gentleman to say that San Diego has a contract with the Federal Government to supply water?

Mr. McKINNON. San Diego originally had its own independent water supply—

Mr. CRAWFORD. I am talking about the present time.

Mr. McKINNON. At the moment San Diego's water rights are thrown in with that of the metropolitan water district.

Mr. CRAWFORD. So I understand. Did not the metropolitan water district incur several million dollars of obligations in connection with the construction of a water-supply system that now goes into San Diego as a part of the metropolitan water district operation?

Mr. McKINNON. That is right. When San Diego joined the metropolitan water district it assumed its proportionate share to pay for the metropolitan water district aqueduct.

Mr. CRAWFORD. At the present time, then, that portion of the water viaduct system which supplies San Diego is running approximately at full capacity to San Diego?

Mr. McKINNON. That is correct.

Mr. CRAWFORD. But the aqueduct capacity which runs from the river to Los Angeles is not absorbed, by a long way, is it?

Mr. McKINNON. The gentleman is correct, but the part that is supplied from the aqueduct into San Diego is operating at full capacity. That is brought about largely by the use of the Navy.

Mr. CRAWFORD. I understand. Now, in the event of a great defense program or active participation in a hot war, San Diego would shortly be without an adequate water supply, would it not?

Mr. McKINNON. That is correct, plus the additional fact that we feel it is strategically important to have additional supplies coming in through a different route than the present one. What I am trying to say is simply this: That if we duplicated that first barrel with a second barrel along the same route, it would be very easy for the enemy to put our complete water supply out of commission with one bomb; whereas, by supplementing the water supply by a different route, we are adding to our national defense and national safety.

Mr. CRAWFORD. As a matter of fact, this new supply may soon far exceed the capacity of the present supply line.

Mr. McKINNON. That is correct. We could take full water rights and use it advantageously if we could get it.

Mr. RICH. Mr. Speaker, will the gentleman yield?

Mr. McKINNON. I yield.

Mr. RICH. If the survey for this tunnel is permitted and it is ultimately consummated and Congress is asked to make the appropriation to bring that water

from the Colorado River into California will it in any way complicate matters, or will it aid and assist in having the great tunnel built under the mountains to take the water down to Arizona eventually where the people of Arizona are trying to get the waters of the Colorado River at a cost to the National Government of over a billion and a quarter, where the expense is going to be up to the sum of \$17.50 an acre for what it will irrigate, with the land, when you eventually get it, worth only \$200 an acre—is this going to aid and assist that project in any way?

Mr. McKINNON. This has no connection with that project in any way.

Mr. RICH. And it will not influence the gentleman from California to try to get that legislation put through in order that Arizona may have this great project at the expense of the public constructed with great waste of Federal funds?

Mr. McKINNON. The gentleman has no need for alarm in that direction, I can assure him.

Mr. RICH. I am alarmed. I want to keep these things within bounds.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Chief of Army Engineers is hereby authorized and directed to cause a survey to be made to determine the feasibility and advisability of constructing a multipurpose highway, railway, and adequate tunnel through the Laguna Mountains in San Diego County, Calif., with a view to improving, for national defense purposes, the route of United States Highway No. 80; expediting highway and railway transportation to and from San Diego Harbor; and augmenting and improving the domestic and industrial water supply of the San Diego area: *Provided,* There is hereby authorized to be appropriated such sum as the Chief of Engineers shall determine to be necessary to carry out the purposes of this act. The Chief of Engineers shall report his recommendations to the Congress within 2 years from the date funds for this survey are made available by the Congress.

With the following committee amendments:

Page 2, strike out lines 4 to 9, both inclusive, and insert in lieu thereof the following:

"(b) This act shall not apply to—

"(1) the Tennessee Valley Authority;

"(2) the field service of the Post Office Department;

"(3) physicians, dentists, nurses, and other employees in the Department of Medicine and Surgery in the Veterans' Administration whose compensation is fixed under Public Law 293, Seventy-ninth Congress, approved January 3, 1946;

"(4) the Foreign Service of the United States under the Department of State;

"(5) production credit corporations;

"(6) Federal intermediate credit banks;

"(7) Federal land banks;

"(8) banks for cooperatives;

"(9) officers and employees of the municipal government of the District of Columbia whose compensation is not fixed by the Classification Act of 1949 (Public Law 429, 81st Cong., approved October 28, 1949)."

Page 5, line 14, strike out beginning with the word "is" down through the word "with" in line 15, and insert in lieu thereof the following: "does not meet the requirements of."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to authorize a preliminary examination and investigation to determine the feasibility and advisability of constructing a multipurpose tunnel through the Laguna Mountains in San Diego County in California."

A motion to reconsider was laid on the table.

Mr. MURDOCK. Mr. Speaker, I need not remind you that there is now a bitter controversy among the States of the Colorado Basin over the legal and rightful division of the limited supply of Colorado River water. This controversy involves all seven of the States of the basin but is particularly bitter at the moment between Arizona and California. As a Representative from Arizona, I have the firm conviction that certain Californians are attempting to divert into California at the Imperial Diversion Dam and into the All-American Canal a greater quantity of water than her legal share, and more than she is rightfully entitled to divert, to the great prospective harm of Arizona and the five other States of the Colorado Basin.

Entirely apart from this bill, I am convinced that those in southern California who are seeking to make this large diversion intend to use the water for a much less beneficial use than the 112,000 acre-feet of water contracted for by San Diego for our naval base. There is abundant evidence to show what their questionable designs are on Colorado River water, which water ought rightfully and legally to be used in other States but which they seek eventually to divert into California at the Imperial Dam and not for the highest use on the coast. No, this would not be water for California cities. I am indignant at these attempts to deprive Arizona of water, the legal and rightful use of which belongs to her, and I think every Member of this body ought to be highly indignant that the claims on Colorado River water for the great naval base at San Diego should be given such a low priority rating in California law.

I warn my colleagues that our desire and determination to fill water needs of the armed forces may be used by designing men to take too much water out of the Colorado River at the Imperial Diversion Dam on a pretext of using it at the naval base at San Diego, but with real intent to use it in a less beneficial way or even in a purely selfish way, and at the same time send most of it to lands in Mexico or waste it to the ocean. Any aqueduct as the one mentioned in this bill must be carefully safeguarded.

ADMINISTRATION OF PERFORMANCE-RATING PLANS FOR CERTAIN OFFICERS AND EMPLOYEES OF THE FEDERAL GOVERNMENT

The Clerk called the bill (H. R. 7824) to provide for the administration of performance-rating plans for certain officers and employees of the Federal Government, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That this act may be cited as the "Performance Rating Act of 1950."

SEC. 2. (a) For the purposes of this act, the term "department" includes (1) the executive departments; (2) the independent establishments and agencies in the executive branch, including corporations wholly owned by the United States; (3) the Administrative Office of the United States Courts; (4) the Library of Congress; (5) the Botanic Gardens; (6) the Government Printing Office; (7) the General Accounting Office; and (8) the municipal government of the District of Columbia.

(b) This act shall not apply to the Tennessee Valley Authority, the field service of the Post Office Department, the Department of Medicine and Surgery of the Veterans' Administration, the Foreign Service of the United States under the Department of State, or to employees in the Territories and possessions of the United States.

SEC. 3. For the purpose of recognizing the merits of officers and employees, and their contributions to efficiency and economy in the Federal service, each department shall establish and use on or more performance-rating plans for evaluating the work performance of such officers and employees.

SEC. 4. No officer or employee of any department shall be given a performance rating, regardless of the name given to such rating, and no such rating shall be used as a basis for any action, except under a performance-rating plan approved by the Civil Service Commission as conforming with the requirements of this act.

SEC. 5. Performance-rating plans required by this act shall be as simple as possible, and each such plan shall provide—

- (1) that proper performance requirements be made known to all officers and employees;
- (2) that performance be fairly appraised in relation to such requirements;
- (3) for the use of appraisals to improve the effectiveness of employee performance;
- (4) or strengthening supervisor-employee relationships; and

(5) that each officer and employee be kept currently advised of his performance and promptly notified of his performance rating.

SEC. 6. Each performance-rating plan shall provide for ratings representing at least (1) satisfactory performance, corresponding to an efficiency rating of "good" under the Veterans' Preference Act of 1944, as amended, and under laws superseded by this act; (2) unsatisfactory performance, which shall serve as a basis for removal from the position in which such unsatisfactory performance was rendered; and (3) excellent performance, which shall be accorded only when all aspects of performance not only exceed normal requirements but are outstanding and deserve special commendation. No officer or employee shall be rated unsatisfactory without a 90-day prior warning and a reasonable opportunity to demonstrate satisfactory performance.

SEC. 7. (a) Upon the request of any officer or employee of a department, such department shall provide one impartial review of the performance rating of such officer or employee.

(b) There shall be established in each department one or more boards of review for the purpose of considering and passing upon the merits of performance ratings under rating plans established under this act. Each board of review shall be composed of three members. One member shall be designated by the head of the department. One member shall be designated by the officers and employees of the department in such manner as may be provided by the Civil

Service Commission. One member, who shall serve as chairman, shall be designated by the Civil Service Commission. Alternate members shall be designated in the same manner as their respective principal members.

(c) In addition to the performance-rating appeal provided in subsection (a), any officer or employee with a current performance rating of less than excellent, upon written appeal to the chairman of the appropriate board of review established under subsection (b), shall be entitled, as a matter of right, to a hearing and decision on the merits of the appealed rating.

(d) At such hearing the appellant, or his designated representative, and representatives of the department shall be afforded an opportunity to submit pertinent information orally or in writing, and to hear or examine, and reply to, information submitted by others. After such hearing, the board of review shall confirm the appealed rating or make such change as it deems to be proper.

SEC. 8. (a) The Civil Service Commission is authorized to issue such regulations as may be necessary for the administration of this act.

(b) The Commission shall inspect the administration of performance-rating plans by each department to determine compliance with the requirements of this act and regulations issued thereunder.

(c) Whenever the Commission shall determine that a performance-rating plan is not being administered in compliance with this act and the regulations issued thereunder, the Commission may, after notice to the department, giving the reasons, revoke its approval of such plan.

(d) After such revocation, such performance-rating plan and any current ratings thereunder shall become inoperative, and the department shall thereupon use a performance-rating plan prescribed by the Commission.

SEC. 9. (a) Section 701 of the Classification Act of 1949 (Public Law 429, 81st Cong., approved October 28, 1949) is hereby amended to read as follows:

"SEC. 701. Each officer or employee compensated on a per annum basis, and occupying a permanent position within the scope of the compensation schedules fixed by this act, who has not attained the maximum scheduled rate of compensation for the grade in which his position is placed, shall be advanced in compensation successively to the next higher rate within the grade at the beginning of the next pay period following the completion of (1) each 52 calendar weeks of service if his position is in a grade in which the step increases are less than \$200 or (2) each 78 calendar weeks of service if his position is in a grade in which the step increases are \$200 or more, subject to the following conditions:

"(A) That no equivalent increase in compensation from any cause was received during such period, except increase made pursuant to section 702 or 1002;

"(B) That he has a current performance rating of 'satisfactory' or better; and

"(C) That the benefit of successive step increases shall be preserved, under regulations issued by the Commission for officers and employees whose continuous service is interrupted in the public interest by service with the armed forces or by service in essential non-Government civilian employment during a period of war or national emergency."

(b) Section 702 (a) of such act is amended by striking out "section 701 (a)" and inserting in lieu thereof "section 701."

SEC. 10. Section 703 (b) of title VII of the Classification Act of 1949 (Public Law 429, 81st Cong., approved October 28, 1949) is hereby amended to read:

"(2) No officer or employee shall receive a longevity step increase unless his current performance rating is 'satisfactory' or better."

SEC. 11. The following acts or parts of acts are hereby repealed:

(1) Section 4 of the act of August 23, 1912 (37 Stat. 413);

(2) The act of July 31, 1946 (60 Stat. 751; 5 U. S. C. 669a);

(3) Title IX of the Classification Act of 1949 (Public Law 429, 81st Cong.).

SEC. 12. This act shall take effect 90 days after the date of its enactment.

SEC. 13. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this act.

SEC. 14. All laws or parts of laws inconsistent herewith are hereby repealed to the extent of such inconsistency.

With the following committee amendment:

Page 2, strike out lines 4 to 9, both inclusive, and insert in lieu thereof the following:

"(b) This act shall not apply to—

"(1) the Tennessee Valley Authority;

"(2) the field service of the Post Office Department;

"(3) physicians, dentists, nurses, and other employees in the Department of Medicine and Surgery in the Veterans' Administration whose compensation is fixed under Public Law 293, Seventy-ninth Congress, approved January 3, 1946;

"(4) the Foreign Service of the United States under the Department of State;

"(5) Production credit corporations;

"(6) Federal intermediate credit banks;

"(7) Federal land banks;

"(8) banks for cooperatives;

"(9) officers and employees of the municipal government of the District of Columbia whose compensation is not fixed by the Classification Act of 1949 (Public Law 429, 81st Cong., approved October 28, 1948)."

Mr. MURRAY of Tennessee. Mr. Speaker, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. MURRAY of Tennessee to the committee amendment: At the end of the committee amendment change the period to a semicolon and add the following: "(10) the Atomic Energy Commission."

Mr. MURRAY of Tennessee. Mr. Speaker, the House Post Office and Civil Service Committee has unanimously approved H. R. 7824, which provides for the administration of performance-rating plans for certain officers and employees of the Federal Government. The bill sets up a performance-rating system to replace the present efficiency-rating system provided for in title IX of the Classification Act of 1923, as supplemented by the Classification Act of 1949.

Generally, the bill covers all employees in the executive branch of the Government, including the General Accounting Office, the Library of Congress, the Government Printing Office, and classified employees in the municipal government of the District of Columbia. Approximately 1,300,000 employees will be covered by the legislation; whereas the coverage of the efficiency-rating system under the Classification Act applied only to those under the Classification Act who numbered almost 900,000.

Appropriate exemptions are provided for the Tennessee Valley Authority; the field service of the Post Office Depart-

ment; the Foreign Service of the Department of State; physicians, dentists, and nurses in the Veterans' Administration; certain quasi-Government corporations under the Commodity Credit Corporation; and employees of the District of Columbia government whose compensation is not fixed by the Classification Act.

With respect to the departments and agencies covered, the bill provides the policy that each department and agency shall establish and use a performance-rating system for evaluating the work of its employees under plans approved by the Civil Service Commission.

The principal differences between this bill and existing law are: First, the bill covers an additional 400,000 employees, mainly wage-board employees and other Federal employees for whom no uniform performance-rating system has been established; second, the present efficiency ratings of "excellent," "very good," "good," "fair," and "unsatisfactory" are replaced by three ratings of "excellent," "satisfactory," and "unsatisfactory"; third, Federal employees covered by the Classification Act under the bill will receive within-grade step increases upon maintaining "satisfactory" or above performance ratings, whereas under the present law such classified employees must receive a "good" efficiency rating plus a certificate of satisfactory service and conduct; fourth, the departments and agencies covered by the bill are given greater latitude in formulating performance-rating systems under broad congressional policy, whereas under present law, the Civil Service Commission establishes the efficiency-rating system for classified Federal employees; and fifth, under the bill, employees are entitled to receive a 90-day prior warning and a reasonable opportunity to demonstrate satisfactory performance before an "unsatisfactory" rating is given, whereas at the present time this is merely a regulation of the Civil Service Commission for the benefit of only those employees now covered.

The legislation preserves existing appeal rights of Federal employees in connection with their performance ratings. Impartial and independent boards of review are established for the purpose of considering performance-rating appeals. This procedure is identical with the present procedure regarding efficiency-rating appeals and the independent board is composed of one member representing the employees, one member representing the employing department, and the chairman, a Civil Service Commission employee, designated by the Commission.

The committee conducted extensive hearings with respect to the bill, at which time Federal employee organizations, including the American Federation of Government Employees, the National Federation of Federal Employees, the Government Employees' Council, and the American Federation of Labor appeared and unanimously supported the provisions of the bill.

The Civil Service Commission stated that the legislation was a distinct improvement over the present efficiency rating system. However, it opposed certain principles embodied in the bill

which the committee considered essential to any workable performance rating system. In opposition to the Commission's views the committee unanimously agreed: First, that departments and agencies covered by the legislation should be required to provide performance rating plans, subject to the approval of the Civil Service Commission; second, that the bill should contain broad policy under which performance rating plans are to be administered; and third, that employees covered by the bill should be entitled to impartial reviews of their performance ratings through the right of appeal to an independent board.

The general objective and purpose of the legislation is to provide a more flexible and workable performance rating system for Federal employees, which is designed to improve the Federal civil service. The committee unanimously agreed that the bill provides adequate safeguards for all Federal employees and will result in a more efficient civil service.

The bill contains general policy requirements which must be followed by the departments and agencies and the Civil Service Commission; however, there is sufficient flexibility to allow the departments and agencies to work out, within reasonable limitations, performance rating plans which will be superior to the present efficiency rating system.

It is believed that the legislation will result in a saving of Federal funds, by reason of the fact that there will be less performance rating appeals by Federal employees.

The SPEAKER. The question is on the amendment offered by the gentleman from Tennessee.

The amendment to the committee amendment was agreed to.

The committee amendment as amended was agreed to.

The SPEAKER. The Clerk will report the next committee amendment.

The Clerk read as follows:

Page 6, line 8, strike out the words "is not being administered in compliance with" and insert in lieu thereof "does not meet the requirements of."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ENLISTMENT OF ALIENS IN THE REGULAR ARMY

The Clerk called the bill (S. 2269) to provide for the enlistment of aliens in the Regular Army.

Mr. VINSON. Mr. Speaker, I ask unanimous consent that this bill be stricken from the calendar for the reason a rule has been granted for its consideration.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

REVISIONS IN THE OFFICER PERSONNEL ACT OF 1947, AS AMENDED

The Clerk called the bill (S. 2335) to make certain revisions in titles I and III of the Officer Personnel Act of 1947, as amended.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. BYRNES of Wisconsin. Mr. Speaker, reserving the right to object, I wonder if a member of the committee will explain this bill briefly for the benefit of the Members.

Mr. BROOKS. Mr. Speaker, my subcommittee handled this bill. May I say first that it is about as technical a bill as I have ever had experience with in the Congress. We worked long hours on it getting the technicalities worked out to the very finest point.

The bill makes a number of technical amendments in the promotion laws covering the Navy and Marine Corps. The most important of the amendments perhaps is the one covering elimination of the so-called plucking boards, which have been in operation in the Navy for some time. These plucking boards are set up for the purpose of eliminating flag-rank officers—that is, high-ranking officers in the Navy. It is felt an officer in the Navy who has been serving for a long period of time when he is removed by the plucking-board process leaves the service under a cloud when it is not the intention of the act to cause him to leave under that status.

Instead of the plucking board, we set up a selection board for the selection of officers for retention in the Navy. This Board will have for its primary duty the retention of flag-rank officers who are needed. Those not retained will then be automatically eliminated but without a stigma attached to their elimination. In other words, they will not be fired. They are simply being dropped from the Navy, and we eliminate the use of the word "plucking," which is objectionable.

Mr. BYRNES of Wisconsin. As I understand it, this bill comes here with the unanimous recommendation of members of the committee?

Mr. BROOKS. That is correct, both the subcommittee and the full committee.

Mr. WHITE of Idaho. Mr. Speaker, reserving the right to object, does not the gentleman think this bill is too complicated and too far-reaching to be passed on the Consent Calendar?

Mr. BROOKS. No. On the contrary, this is badly needed by the services. It is technical and it is not complicated, when one understands the technicalities involved.

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Massachusetts.

Mr. McCORMACK. In response to the inquiry of my friend, the gentleman from Idaho [Mr. WHITE], may I say that while the gentleman from Louisiana has properly stated that this is a technical bill, yet it is a simple bill when one understands the technicalities involved. I can assure the gentleman of that, and I hope he will not interpose any objection to its passage at this time.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Officer Personnel Act of 1947, as amended, is hereby further amended by:

81ST CONGRESS
2D SESSION

H. R. 7824

IN THE SENATE OF THE UNITED STATES

JUNE 20 (legislative day, JUNE 7), 1950

Read twice and referred to the Committee on Post Office and Civil Service

AN ACT

To provide for the administration of performance-rating plans for certain officers and employees of the Federal Government, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Performance Rating Act
4 of 1950".

5 SEC. 2. (a) For the purposes of this Act, the term
6 "department" includes (1) the executive departments; (2)
7 the independent establishments and agencies in the executive
8 branch, including corporations wholly owned by the United
9 States; (3) the Administrative Office of the United States
10 Courts; (4) the Library of Congress; (5) the Botanic

1 Garden; (6) the Government Printing Office; (7) the
2 General Accounting Office; and (8) the municipal govern-
3 ment of the District of Columbia.

4 (b) This Act shall not apply to—

5 (1) the Tennessee Valley Authority;

6 (2) the field service of the Post Office Department;

7 (3) physicians, dentists, nurses, and other em-
8 ployees in the Department of Medicine and Surgery in
9 the Veterans' Administration whose compensation is
10 fixed under Public Law 293, Seventy-ninth Congress,
11 approved January 3, 1946;

12 (4) the Foreign Service of the United States under
13 the Department of State;

14 (5) Production credit corporations;

15 (6) Federal intermediate credit banks;

16 (7) Federal land banks;

17 (8) Banks for cooperatives;

18 (9) officers and employees of the municipal govern-
19 ment of the District of Columbia whose compensation
20 is not fixed by the Classification Act of 1949 (Public
21 Law 429, Eighty-first Congress, approved October 28,
22 1949) ;

23 (10) the Atomic Energy Commission.

24 SEC. 3. For the purpose of recognizing the merits of
25 officers and employees, and their contributions to efficiency

1 and economy in the Federal service, each department shall
2 establish and use one or more performance-rating plans for
3 evaluating the work performance of such officers and
4 employees.

5 SEC. 4. No officer or employee of any department shall
6 be given a performance rating, regardless of the name given
7 to such rating, and no such rating shall be used as a basis
8 for any action, except under a performance-rating plan
9 approved by the Civil Service Commission as conforming
10 with the requirements of this Act.

11 SEC. 5. Performance-rating plans required by this Act
12 shall be as simple as possible, and each such plan shall
13 provide—

14 (1) that proper performance requirements be made
15 known to all officers and employees;

16 (2) that performance be fairly appraised in rela-
17 tion to such requirements;

18 (3) for the use of appraisals to improve the effec-
19 tiveness of employee performance;

20 (4) for strengthening supervisor-employee rela-
21 tionships; and

22 (5) that each officer and employee be kept cur-
23 rently advised of his performance and promptly notified
24 of his performance rating.

25 SEC. 6. Each performance-rating plan shall provide for

1 ratings representing at least (1) satisfactory performance,
2 corresponding to an efficiency rating of "good" under the
3 Veterans' Preference Act of 1944, as amended, and under
4 laws superseded by this Act; (2) unsatisfactory perform-
5 ance, which shall serve as a basis for removal from the posi-
6 tion in which such unsatisfactory performance was rendered;
7 and (3) excellent performance, which shall be accorded
8 only when all aspects of performance not only exceed normal
9 requirements but are outstanding and deserve special com-
10 mendation. No officer or employee shall be rated unsatis-
11 factory without a ninety-day prior warning and a reasonable
12 opportunity to demonstrate satisfactory performance.

13 SEC. 7. (a) Upon the request of any officer or em-
14 ployee of a department, such department shall provide one
15 impartial review of the performance rating of such officer
16 or employee.

17 (b) There shall be established in each department one
18 or more boards of review for the purpose of considering and
19 passing upon the merits of performance ratings under rating
20 plans established under this Act. Each board of review
21 shall be composed of three members. One member shall be
22 designated by the head of the department. One member
23 shall be designated by the officers and employees of the
24 department in such manner as may be provided by the
25 Civil Service Commission. One member, who shall serve

1 as chairman, shall be designated by the Civil Service Com-
2 mission. Alternate members shall be designated in the
3 same manner as their respective principal members.

4 (c) In addition to the performance-rating appeal pro-
5 vided in subsection (a), any officer or employee with a
6 current performance rating of less than excellent, upon writ-
7 ten appeal to the chairman of the appropriate board of
8 review established under subsection (b), shall be entitled,
9 as a matter of right, to a hearing and decision on the merits
10 of the appealed rating.

11 (d) At such hearing the appellant, or his designated
12 representative, and representatives of the department shall
13 be afforded an opportunity to submit pertinent information
14 orally or in writing, and to hear or examine, and reply to,
15 information submitted by others. After such hearing, the
16 board of review shall confirm the appealed rating or make
17 such change as it deems to be proper.

18 SEC. 8. (a) The Civil Service Commission is authorized
19 to issue such regulations as may be necessary for the admin-
20 istration of this Act.

21 (b) The Commission shall inspect the administration
22 of performance-rating plans by each department to deter-
23 mine compliance with the requirements of this Act and
24 regulations issued thereunder.

1 (c) Whenever the Commission shall determine that a
2 performance-rating plan does not meet the requirements of
3 this Act and the regulations issued thereunder, the Commis-
4 sion may, after notice to the department, giving the reasons,
5 revoke its approval of such plan.

6 (d) After such revocation, such performance-rating
7 plan and any current ratings thereunder shall become inop-
8 erative, and the department shall thereupon use a perform-
9 ance-rating plan prescribed by the Commission.

10 SEC. 9. (a) Section 701 of the Classification Act of
11 1949 (Public Law 429, Eighty-first Congress, approved
12 October 28, 1949) is hereby amended to read as follows:

13 “SEC. 701. Each officer or employee compensated on
14 a per annum basis, and occupying a permanent position
15 within the scope of the compensation schedules fixed by
16 this Act, who has not attained the maximum scheduled rate
17 of compensation for the grade in which his position is placed,
18 shall be advanced in compensation successively to the next
19 higher rate within the grade at the beginning of the next
20 pay period following the completion of (1) each fifty-two
21 calendar weeks of service if his position is in a grade in
22 which the step-increases are less than \$200, or (2) each
23 seventy-eight calendar weeks of service if his position is
24 in a grade in which the step-increases are \$200 or more,
25 subject to the following conditions:

1 “(A) That no equivalent increase in compensation
2 from any cause was received during such period, except
3 increase made pursuant to section 702 or 1002;

4 “(B) That he has a current performance rating of
5 ‘Satisfactory’ or better; and

6 “(C) That the benefit of successive step-increases
7 shall be preserved, under regulations issued by the Com-
8 mission for officers and employees whose continuous
9 service is interrupted in the public interest by service
10 with the armed forces or by service in essential non-
11 Government civilian employment during a period of war
12 or national emergency.”

13 (b) Section 702 (a) of such Act is amended by striking
14 out “section 701 (a)” and inserting in lieu thereof “section
15 701”.

16 SEC. 10. Section 703 (b) (2) of title VII of the
17 Classification Act of 1949 (Public Law 429, Eighty-first
18 Congress, approved October 28, 1949) is hereby amended
19 to read:

20 “(2) No officer or employee shall receive a longevity
21 step-increase unless his current performance rating is ‘satis-
22 factory’ or better.”

23 SEC. 11. The following Acts or parts of Acts are hereby
24 repealed:

1 (1) Section 4 of the Act of August 23, 1912 (37 Stat.
2 413) ;

3 (2) The Act of July 31, 1946 (60 Stat. 751; 5
4 U. S. C. 669a) ;

5 (3) Title IX of the Classification Act of 1949 (Public
6 Law 429, Eighty-first Congress) .

7 SEC. 12. This Act shall take effect ninety days after the
8 date of its enactment.

9 SEC. 13. There are hereby authorized to be appropriated
10 such sums as may be necessary to carry out the provisions
11 of this Act.

12 SEC. 14. All laws or parts of laws inconsistent herewith
13 are hereby repealed to the extent of such inconsistency.

Passed the House of Representatives June 19, 1950.

Attest:

RALPH R. ROBERTS,

Clerk.

AN ACT

To provide for the administration of performance-rating plans for certain officers and employees of the Federal Government, and for other purposes.

JUNE 20 (legislative day, JUNE 7), 1950
Read twice and referred to the Committee on Post
Office and Civil Service

Please return to
Division of Legislative Reports
Office of Budget and Finance

81ST CONGRESS
2D SESSION

H. R. 8925

IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 1950

Mr. MURRAY of Tennessee introduced the following bill; which was referred to the Committee on Post Office and Civil Service

A BILL

To provide a recruitment procedure for the competitive civil service in order to insure selection of personnel on the basis of open competition and merit, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Federal Personnel
4 Recruitment Act of 1950".

5 SEC. 2. For the purposes of this Act—

6 (1) The term "department" includes all departments,
7 independent establishments, agencies, and corporations in the
8 executive, legislative, and judicial branches of the Federal
9 Government and in the municipal government of the District
10 of Columbia in which there are competitive positions subject

1 to the Civil Service Act of 1883, as amended and supple-
2 mented.

3 (2) The term "Commission" means the Civil Service
4 Commission.

5 (3) The term "employment plan" means a plan pro-
6 vided for in section 3 (b).

7 SEC. 3. (a) It shall be the duty and responsibility of
8 the Commission to maintain and protect a system of recruit-
9 ment, examination, certification, and selection of persons for
10 competitive civil-service positions in the departments which
11 will result in open competition and selection on merit.

12 (b) Each department shall submit to the Commission
13 an employment plan or plans for the recruitment, examina-
14 tion, certification, and selection of persons for competitive
15 civil-service positions in such department. Two or more
16 departments may jointly submit and operate under an em-
17 ployment plan. If the Commission approves an employment
18 plan submitted by a department, such department, or such
19 department and the Commission, in accordance with such
20 plan, shall recruit, examine, and certify, and such depart-
21 ment shall select, persons for such of its competitive civil-
22 service positions as are included in such plan. All opera-
23 tions of a department under any employment plan shall be
24 subject to such supervision and direction by the Commission
25 as the Commission deems necessary.

1 (c) Notwithstanding subsection (b), the Commission
2 shall have authority, which may be exercised at any time
3 in its discretion, (1) to recruit, examine, and certify per-
4 sons for selection and appointment to competitive civil-
5 service positions which are subject to an approved employ-
6 ment plan, and (2) to modify or change any action taken
7 or procedure followed by a department under an approved
8 employment plan. The Commission shall certify to such
9 department any such action taken by the Commission under
10 this subsection. The department shall take action in accord-
11 ance with such certificate and such certificate shall be bind-
12 ing on the department.

13 SEC. 4. (a) The Commission shall, after consultation
14 with the departments principally concerned—

15 (1) determine, from time to time, with due regard
16 to the effectiveness of the operations of the departments
17 and to the best interests of the Government, those com-
18 petitive civil-service positions which shall be subject to
19 recruitment, examination, and certification by the Com-
20 mission, and those positions which shall be subject to
21 employment plans;

22 (2) prepare standards to be followed in the estab-
23 lishment and operation of employment plans;

24 (3) from time to time revise, supplement, or

1 abolish existing standards, or prepare new standards for
2 employment plans.

3 (b) Standards prepared by the Commission under sub-
4 section (a) shall be published in such form as it may
5 determine.

6 SEC. 5. The Commission shall undertake directly, or
7 make appropriate alternative arrangements for, the recruit-
8 ment, examination, and certification of persons for selection
9 and appointment to competitive civil-service positions not
10 covered by currently approved employment plans.

11 SEC. 6. (a) The Commission shall from time to time,
12 but at least annually, review the operations of the depart-
13 ments under approved employment plans in order to deter-
14 mine whether such operations are in compliance with such
15 plans and with the Civil Service Rules and Regulations.
16 The Commission shall make findings with respect to the
17 operations of the departments under their employment plans
18 and shall report such findings to the heads of the departments
19 concerned.

20 (b) The Commission shall withhold, withdraw, or sus-
21 pend its approval of any employment plan or part thereof
22 whenever it finds that such plan does not meet the standards
23 prepared by the Commission or that operations under such
24 plan are not in compliance with the plan or with the Civil
25 Service Rules and Regulations.

1 SEC. 7. The Commission, in the case of those examina-
2 tions for which it expects competition to be greatly in excess
3 of the needs of the service, may, with due regard to the prin-
4 ciple of open competition, take such action, or direct that
5 such action be taken by a department, as the Commission
6 deems necessary to limit the number of persons permitted
7 to compete for positions to such number as are reasonably
8 required to meet economically and effectively the needs of
9 the service for qualified and capable employees.

10 SEC. 8. The Commission, or a department as authorized
11 by an approved employment plan, shall rate competitors for
12 selection to competitive civil-service positions either (1)
13 numerically on a scale of 100, or (2) by categories de-
14 scribing the degrees of qualifications and capabilities of com-
15 petitors; except that category ratings shall not be used in
16 the case of competitors for positions in the field service of
17 the Post Office Department.

18 SEC. 9. (a) So much of section 3 of the Veterans'
19 Preference Act of 1944, as amended, as precedes "*Provided,*
20 That" is amended to read as follows:

21 "SEC. 3. In those examinations to determine the quali-
22 fications of applicants for entrance into the service in which
23 applicants are rated numerically, ten points shall be added
24 to the earned ratings of those persons included under sec-

tion 2 (1), (2), (3), (5), and (6), and five points shall
be added to the earned ratings of those persons included
under section 2 (4) of this Act, and on those examinations
in which applicants are rated by categories such persons
shall receive the preference provided by section 7 (b) of
this Act:”.

(b) Section 7 of such Act, as amended, is amended to
read as follows: ‘

“SEC. 7. (a) For professional and scientific positions
for which the entrance salary is over \$3,000 per annum
and for which eligibles are rated numerically, the names of
preference eligibles shall be entered on the appropriate civil-
service registers of eligibles in accordance with their respec-
tive augmented ratings and ahead of all eligibles having
the same rating who are not entitled to preference. For
all other positions for which eligibles are rated numerically,
the names of eligibles entitled to ten points preference shall
be entered at the top of the appropriate civil-service reg-
isters in accordance with their respective augmented ratings,
and the names of eligibles entitled to five points preference
shall be entered on such registers of eligibles in accordance
with their respective augmented ratings and ahead of all
eligibles having the same rating who are not entitled to
preference.

“(b) For professional and scientific positions for which

1 the entrance salary is over \$3,000 per annum and for which
2 eligibles are rated by categories, the names of preference
3 eligibles shall be entered on the appropriate civil-service
4 registers of eligibles in accordance with their respective
5 category ratings and ahead of all others in the same category.
6 For all other positions for which eligibles are rated by cate-
7 gories, the names of preference eligibles shall be entered on
8 the appropriate civil-service registers of eligibles in accord-
9 ance with their respective category ratings and ahead of all
10 others in the same category, except that the names of eligibles
11 entitled to ten points preference shall be entered at the top
12 of the highest category."

13 (c) So much of section 8 of such Act, as amended,
14 as precedes "*Provided, That*" is amended to read as follows:

15 "SEC. 8. (a) When in accordance with civil-service
16 laws and rules, a nominating or appointing officer requests
17 certification of eligibles for appointment purposes, there shall
18 be certified, from the top of the appropriate civil-service
19 register of eligibles, such number of names as may be neces-
20 sary to permit such officer to make a selection for each
21 vacancy in the manner provided by this section.

22 "(b) When eligibles have been rated numerically, the
23 nominating or appointing officer shall be entitled to consider
24 at least three eligibles for each vacancy and shall make
25 selection from not more than the highest three eligibles avail-

1 able for appointment on certification: *Provided*, That the
2 Civil Service Commission may by regulation provide that
3 with respect to certain positions, not including positions in
4 the field service of the Post Office Department, the nomi-
5 nating or appointing officer shall be entitled to consider at
6 least five eligibles for each vacancy and shall make selection
7 from not more than the highest five eligibles available for
8 appointment on certification.

9 “(c) When eligibles have been rated by categories, the
10 nominating or appointing officer shall be entitled to con-
11 sider at least five eligibles for each vacancy and shall make
12 selection from the highest category. The Commission shall
13 prepare standards for determining when the number of
14 eligibles in any category or categories to be considered is
15 insufficient or excessive. If, under such standards, there is
16 an insufficient number of eligibles in the highest category,
17 eligibles in the next highest category or categories shall also
18 be considered for selection. If, under such standards, there
19 is an excessive number of eligibles in the category or cate-
20 gories to be considered, the officer shall make selection from
21 such lesser number of eligibles in such category or cate-
22 gories as may be determined to be sufficient under such
23 standards. Selection of a nonpreference eligible shall not
24 be made in any case if there are available for selection the

1 names of at least five preference eligibles in the same or a
2 higher category.

3 “(d) A nominating or appointing officer shall not be
4 required to consider an eligible for selection if objection to
5 such eligible shall be made and sustained for any proper
6 and adequate reason under regulations prescribed by the
7 Civil Service Commission:”.

8 SEC. 10. Any competitor for selection to a competitive
9 civil service position shall, upon written request to the Com-
10 mission, be entitled as a matter of right to a review by the
11 Commission of the rating given him under section 8 of this
12 Act. After such review the Commission shall take such
13 action as it may find to be proper.

14 SEC. 11. Subject to the Federal Reports Act of 1942,
15 the Commission—

16 (1) shall provide for the maintenance and preser-
17 vation of personnel records, including the records of
18 examinations either by the Commission, or by the de-
19 partments, or by both, as the Commission may deter-
20 mine; and

21 (2) shall, after consultation with the departments
22 (when the Commission deems it practicable), establish
23 uniform standards, practices, procedures, and forms for,
24 or otherwise regulate, the personnel operations of the

1 departments, to the extent that the Commission deems
2 such action to be in the interests of the service.

3 SEC. 12. As an aid to more effective governmental
4 administration, the Commission is authorized and directed
5 to facilitate the transfer of officers and employees with
6 special qualifications to positions requiring such qualifications
7 by referring the names of such officers and employees to
8 any departments making requests therefor. The Commis-
9 sion shall obtain from other departments, in connection with
10 the filling of such positions, the names of and information
11 with respect to officers and employees with special qualifica-
12 tions, and shall maintain such records as are necessary for
13 the economical and efficient administration of this section.

14 SEC. 13. (a) The President is authorized to issue such
15 civil service rules, and the Commission is authorized to
16 issue such regulations, as may be necessary for the adminis-
17 tration of this Act.

18 (b) The Commission shall from time to time make
19 such investigations with respect to the operation of this
20 Act as it may deem necessary. The departments shall
21 furnish the Commission such information in connection with
22 such investigations as the Commission may request. The

1 Commission shall take such corrective action as it may
2 deem necessary in the light of such investigations.

3 SEC. 14. There are hereby authorized to be appro-
4 priated such sums as may be necessary to carry out the
5 provisions of this Act.

6 SEC. 15. All laws or parts of laws inconsistent with this
7 Act are hereby repealed to the extent of such inconsistency.

8 SEC. 16. This Act shall take effect on the ninetieth day
9 after the date of its enactment.

A BILL

To provide a recruitment procedure for the competitive civil service in order to insure selection of personnel on the basis of open competition and merit, and for other purposes.

By Mr. MURRAY of Tennessee

JUNE 22, 1950

Referred to the Committee on Post Office and Civil Service

TO PROVIDE A RECRUITMENT PROCEDURE FOR
THE COMPETITIVE CIVIL SERVICE

HEARING

BEFORE THE

COMMITTEE ON POST OFFICE AND CIVIL SERVICE

HOUSE OF REPRESENTATIVES

EIGHTY-FIRST CONGRESS

SECOND SESSION

ON

H. R. 8925

A BILL TO PROVIDE A RECRUITMENT PROCEDURE
FOR THE COMPETITIVE CIVIL SERVICE IN ORDER
TO INSURE SELECTION OF PERSONNEL ON THE
BASIS OF OPEN COMPETITION AND MERIT, AND
FOR OTHER PURPOSES

JULY 1, 1950



UNITED STATES

GOVERNMENT PRINTING OFFICE

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COMMITTEE ON POST OFFICE AND CIVIL SERVICE

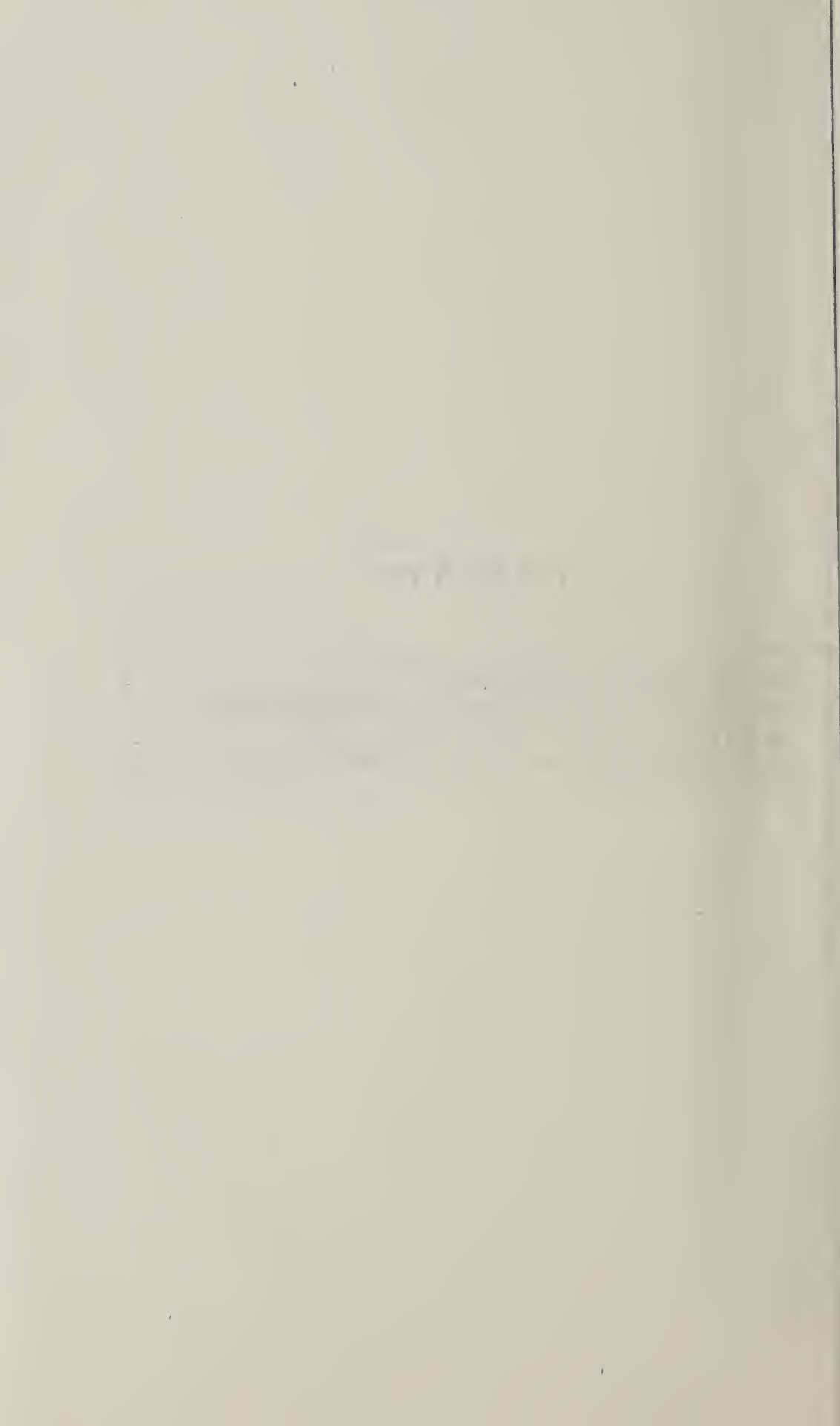
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TO PROVIDE A RECRUITMENT PROCEDURE FOR THE COMPETITIVE CIVIL SERVICE

SATURDAY, JULY 1, 1950

HOUSE OF REPRESENTATIVES,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
Washington, D. C.

The committee met at 10 a. m., Hon. Tom Murray (chairman) presiding, to consider H. R. 8925.
(Bill H. R. 8925 reads as follows:)

[H. R. 8925, 81st Cong., 2d sess.]

A BILL To provide a recruitment procedure for the competitive civil service in order to insure selection of personnel on the basis of open competition and merit, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Personnel Recruitment Act of 1950".

SEC. 2. For the purposes of this Act—

(1) The term "department" includes all departments, independent establishments, agencies, and corporations in the executive, legislative, and judicial branches of the Federal Government and in the municipal government of the District of Columbia in which there are competitive positions subject to the Civil Service Act of 1883, as amended and supplemented.

(2) The term "Commission" means the Civil Service Commission.

(3) The term "employment plan" means a plan provided for in section 3 (b).

SEC. 3. (a) It shall be the duty and responsibility of the Commission to maintain and protect a system of recruitment, examination, certification, and selection of persons for competitive civil-service positions in the departments which will result in open competition and selection on merit.

(b) Each department shall submit to the Commission an employment plan or plans for the recruitment, examination, certification, and selection of persons for competitive civil-service positions in such department. Two or more departments may jointly submit and operate under an employment plan. If the Commission approves an employment plan submitted by a department, such department, or such department and the Commission, in accordance with such plan, shall recruit, examine, and certify, and such department shall select, persons for such of its competitive civil-service positions as are included in such plan. All operations of a department under any employment plan shall be subject to such supervision and direction by the Commission as the Commission deems necessary.

(c) Notwithstanding subsection (b), the Commission shall have authority, which may be exercised at any time in its discretion, (1) to recruit, examine, and certify persons for selection and appointment to competitive civil-service positions which are subject to an approved employment plan, and (2) to modify or change any action taken or procedure followed by a department under an approved employment plan. The Commission shall certify to such department any such action taken by the Commission under this subsection. The department shall take action in accordance with such certificate and such certificate shall be binding on the department.

SEC. 4. (a) The Commission shall, after consultation with the departments principally concerned—

(1) determine, from time to time, with due regard to the effectiveness of the operations of the departments and to the best interests of the Government, those competitive civil-service positions which shall be subject to

recruitment, examination, and certification by the Commission, and those positions which shall be subject to employment plans;

(2) prepare standards to be followed in the establishment and operation of employment plans;

(3) from time to time revise, supplement, or abolish existing standards, or prepare new standards for employment plans.

(b) Standards prepared by the Commission under subsection (a) shall be published in such form as it may determine.

SEC. 5. The Commission shall undertake directly, or make appropriate alternative arrangements for, the recruitment, examination, and certification of persons for selection and appointment to competitive civil-service positions not covered by currently approved employment plans.

SEC. 6. (a) The Commission shall from time to time, but at least annually, review the operations of the departments under approved employment plans in order to determine whether such operations are in compliance with such plans and with the Civil Service Rules and Regulations. The Commission shall make findings with respect to the operations of the departments under their employment plans and shall report such findings to the heads of the departments concerned.

(b) The Commission shall withhold, withdraw, or suspend its approval of any employment plan or part thereof whenever it finds that such plan does not meet the standards prepared by the Commission or that operations under such plan are not in compliance with the plan or with the Civil Service Rules and Regulations.

SEC. 7. The Commission, in the case of those examinations for which it expects competition to be greatly in excess of the needs of the service, may, with due regard to the principle of open competition, take such action, or direct that such action be taken by a department, as the Commission deems necessary to limit the number of persons permitted to compete for positions to such number as are reasonably required to meet economically and effectively the needs of the service for qualified and capable employees.

SEC. 8. The Commission, or a department as authorized by an approved employment plan, shall rate competitors for selection to competitive civil-service positions either (1) numerically on a scale of 100, or (2) by categories describing the degrees of qualifications and capabilities of competitors; except that category ratings shall not be used in the case of competitors for positions in the field service of the Post Office Department.

SEC. 9. (a) So much of section 3 of the Veterans' Preference Act of 1944, as amended, as precedes "*Provided, That*" is amended to read as follows:

"SEC. 3. In those examinations to determine the qualifications of applicants for entrance into the service in which applicants are rated numerically, ten points shall be added to the earned ratings of those persons included under section 2 (1), (2), (3), (5), and (6), and five points shall be added to the earned ratings of those persons included under section 2 (4) of this Act, and on those examinations in which applicants are rated by categories such persons shall receive the preference provided by section 7 (b) of this Act."

(b) Section 7 of such Act, as amended, is amended to read as follows:

"SEC. 7. (a) For professional and scientific positions for which the entrance salary is over \$3,000 per annum and for which eligibles are rated numerically, the names of preference eligibles shall be entered on the appropriate civil-service registers of eligibles in accordance with their respective augmented ratings and ahead of all eligibles having the same rating who are not entitled to preference. For all other positions for which eligibles are rated numerically, the names of eligibles entitled to ten points preference shall be entered at the top of the appropriate civil-service registers in accordance with their respective augmented ratings, and the names of eligibles entitled to five points preference shall be entered on such registers of eligibles in accordance with their respective augmented ratings and ahead of all eligibles having the same rating who are not entitled to preference.

"(b) For professional and scientific positions for which the entrance salary is over \$3,000 per annum and for which eligibles are rated by categories, the names of preference eligibles shall be entered on the appropriate civil-service registers of eligibles in accordance with their respective category ratings and ahead of all others in the same category. For all other positions for which eligibles are rated by categories, the names of preference eligibles shall be entered on the appropriate civil-service registers of eligibles in accordance with their respective category ratings and ahead of all others in the same category, except that the names of eligibles entitled to ten points preference shall be entered at the top of the highest category."

(c) So much of section 8 of such Act, as amended, as precedes "*Provided, That*" is amended to read as follows:

"SEC. 8. (a) When in accordance with civil-service laws and rules, a nominating or appointing officer requests certification of eligibles for appointment purposes, there shall be certified, from the top of the appropriate civil-service register of eligibles, such number of names as may be necessary to permit such officer to make a selection for each vacancy in the manner provided by this section.

"(b) When eligibles have been rated numerically, the nominating or appointing officer shall be entitled to consider at least three eligibles for each vacancy and shall make selection from not more than the highest three eligibles available for appointment on certification: *Provided*, That the Civil Service Commission may by regulation provide that with respect to certain positions, not including positions in the field service of the Post Office Department, the nominating or appointing officer shall be entitled to consider at least five eligibles for each vacancy and shall make selection from not more than the highest five eligibles available for appointment on certification.

"(c) When eligibles have been rated by categories, the nominating or appointing officer shall be entitled to consider at least five eligibles for each vacancy and shall make selection from the highest category. The Commission shall prepare standards for determining when the number of eligibles in any category or categories to be considered is insufficient or excessive. If, under such standards, there is an insufficient number of eligibles in the highest category, eligibles in the next highest category or categories shall also be considered for selection. If, under such standards, there is an excessive number of eligibles in the category or categories to be considered, the officer shall make selection from such lesser number of eligibles in such category or categories as may be determined to be sufficient under such standards. Selection of a nonpreference eligible shall not be made in any case if there are available for selection the names of at least five preference eligibles in the same or a higher category.

"(d) A nominating or appointing officer shall not be required to consider an eligible for selection if objection to such eligible shall be made and sustained for any proper and adequate reason under regulations prescribed by the Civil Service Commission."

SEC. 10. Any competitor for selection to a competitive civil service position shall, upon written request to the Commission, be entitled as a matter of right to a review by the Commission of the rating given him under section 8 of this Act. After such review the Commission shall take such action as it may find to be proper.

SEC. 11. Subject to the Federal Reports Act of 1942, the Commission—

(1) shall provide for the maintenance and preservation of personnel records, including the records of examinations either by the Commission, or by the departments, or by both, as the Commission may determine; and

(2) shall, after consultation with the departments (when the Commission deems it practicable), establish uniform standards, practices, procedures, and forms for, or otherwise regulate, the personnel operations of the departments, to the extent that the Commission deems such action to be in the interests of the service.

SEC. 12. As an aid to more effective governmental administration, the Commission is authorized and directed to facilitate the transfer of officers and employees with special qualifications to positions requiring such qualifications by referring the names of such officers and employees to any departments making requests therefor. The Commission shall obtain from other departments, in connection with the filling of such positions, the names of and information with respect to officers and employees with special qualifications, and shall maintain such records as are necessary for the economical and efficient administration of this section.

SEC. 13. (a) The President is authorized to issue such civil service rules, and the Commission is authorized to issue such regulations, as may be necessary for the administration of this Act.

(b) The Commission shall from time to time make such investigations with respect to the operation of this Act as it may deem necessary. The departments shall furnish the Commission such information in connection with such investigations as the Commission may request. The Commission shall take such corrective action as it may deem necessary in the light of such investigations.

SEC. 14. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEC. 15. All laws or parts of laws inconsistent with this Act are hereby repealed to the extent of such inconsistency.

SEC. 16. This Act shall take effect on the ninetieth day after the date of its enactment.

The CHAIRMAN. The committee will be in order.

We are happy to have with us this morning as a witness Dr. Arthur S. Flemming, for many years a member of the Civil Service Commission, who voluntarily resigned to accept the presidency of Ohio Wesleyan University, and who also has served as a member of the Commission on Organization of the Executive Branch, known as the Hoover Commission.

I consider Dr. Flemming an outstanding authority and expert on civil-service procedure in Government on personnel matters. Dr. Flemming appeared before the committee a few months ago on H. R. 5181, introduced by Mr. Hoffman, of Michigan, and at that time Dr. Flemming said he was not very familiar with the bill, that the bill had never been presented to the Commission on the Organization of the Executive Branch, and he said that he would not care to testify concerning the provisions of H. R. 5181, but would rather dwell upon the recommendations of the Hoover Commission.

After Dr. Flemming testified representatives of various employee groups and veterans' groups appeared before our committee and testified vigorously against H. R. 5181. Members of the Civil Service Commission also appeared to testify against H. R. 5181.

Realizing that there was no chance of getting any favorable consideration of H. R. 5181 because of the numerous objections and protests, I then began holding conferences with members of the Civil Service Commission and the Bureau of the Budget in an effort to try to reach some happy solution on the differences between the various groups on this kind of legislation, because I realized that it was imperative that we have some legislation modernizing and simplifying the civil-service recruitment procedure today.

After various conferences this bill, H. R. 8925, was introduced by me, with the approval of the Bureau of the Budget and the Civil Service Commission.

I realize it is not a perfect bill, by any means, but I do think it is a step in the right direction, and if we can get legislation which carries out the objectives of H. R. 8925, maybe with some amendments, it will lay the foundation upon which the Congress can build in the future and make the necessary improvements and additions now to the present legislation.

As Dr. Flemming knows, time is running short before the adjournment of Congress and if we are to get through any kind of legislation we must have the unanimous support of the committee to get it by. Therefore I am trying to resolve all differences so that all may agree upon some satisfactory legislation in this matter.

We are glad to have you with us, and will be glad to have your views, Dr. Flemming, on H. R. 8925.

STATEMENT OF DR. ARTHUR S. FLEMMING, MEMBER, COMMISSION ON ORGANIZATION OF THE EXECUTIVE BRANCH OF THE GOVERNMENT

Dr. FLEMMING. Thank you very much, Mr. Chairman and members of the committee. I am certainly very happy to have the opportunity of commenting on the provisions of H. R. 8925 in the light of the recommendations that were made by the Hoover Commission in the field of recruitment of personnel. As I read this bill,

and as I observe this bill, it deals only with that particular area and does not deal with certain other areas of personnel management on which we made recommendations.

As members of your committee undoubtedly will recall, the basic recommendations of the Hoover Commission in the field of procurement are contained in recommendation No. 6 on page 17 of our report to the Commission. And in that recommendation we said this [reading]:

The President, by Executive order—

in this particular instance it would be approved by legislation, and certainly I am in complete agreement with the approval of it by legislation—

should require all major departments and agencies to conduct vigorous recruiting programs for, and to examine and make final appointments to:

- (a) All high-level administrative, professional, and technical positions.
- (b) All positions peculiar to the agency.
- (c) Any other classes of positions which, in the judgment of the Civil Service Commission, can be filled more effectively by the agencies.

And, I think this paragraph is important:

The agencies should be required to submit their proposed recruiting and examining programs to the Civil Service Commission for approval with the further understanding that the actual conduct of the programs will be subject to inspection by the Commission to enforce adherence to the Civil Service Act and the Veterans Preference Act.

I think it is clear that it is the intent of H. R. 8925 to move in the direction of this basic recommendation. I feel, however, that if the Congress is to take a firm stand on this policy question, that certain amendments to H. R. 8925 should be considered by the committee.

The most important amendment, in my judgment, is one which has already been prepared by Mr. Stauffacher, Executive Assistant to the Director of the Bureau of the Budget. He is proposing that the provision included in the bill as section 3 (c) should be transferred to become section 6 (c) and should read as follows:

Whenever the Civil Service Commission shall find that the departments are not operating in accordance with an approved employment plan and the Civil Service Laws, Rules, and Regulations, the Commission shall have authority, (1) to recruit, examine, and certify persons for selection and appointments to competitive Civil Service positions which are subject to an approved employment plan, and (2) to modify or change any action taken or procedure followed by a department under an approved employment plan. The Commission shall certify to such department any such action taken by the Commission under this subsection. The department shall take action in accordance with such certificate and such certificate shall be binding on the department.

Under subsection 3 (c) as it now reads, the Civil Service Commission could, at any time, abandon one of the policies which Congress desires to inaugurate through this bill. If the amendment proposed by Mr. Stauffacher is approved by the Congress it means that the provisions of subsection 3 (c) become sanctions to be applied by the Commission only when the department fails to operate in accordance with the approved employment plan and the civil-service laws, rules, and regulations.

The CHAIRMAN. I believe that is a good amendment, one which carries out the purpose of this bill.

Dr. FLEMMING. That is right. It is my understanding, Mr. Chairman, from Mr. Stauffacher and also from Commissioner James

Mitchell of the Civil Service Commission that that amendment had the approval of the Civil Service Commission and the Bureau of the Budget. Personally I do feel it is a very important amendment, and I think it would strengthen the bill considerably.

In order to accomplish the same objective, namely, provide a framework and congressional policy within which both the departments and the Commission must operate, I would like to suggest two additional amendments to section 3. One is on page 2, line 8, I feel that after the word "Commission," there should be inserted "and the departments," so that that section will read:

It shall be the duty and responsibility of the Commission and the departments to maintain and protect a system of recruitment, examination, certification—and so on.

This would make it perfectly clear that the legal responsibility and obligation to maintain a system of open competition and to make selections on the basis of merit rests on all public officials within the executive branch of the Government.

Next, still dealing with this same section on page 2, line 25, I believe that the words "as the Commission deems necessary" should be stricken and that the following language should be substituted:

As may be necessary in order to discharge the responsibility assigned to the Commission under this act—

so that the section as amended would read—beginning in line 22—

All operations of a department under any employment plan shall be subject to such supervision and direction by the Commission as may be necessary in order to discharge the responsibility assigned to the Commission under this act.

It seems to me that this amendment would have the effect of requiring the Commission to exercise its power of supervision and direction within the framework of the responsibility assigned to it by the Congress through this act.

Then once again, in order to provide a more specific framework of congressional policy within which the executive branch would be required to work, I feel that one other amendment could be appropriately made, to section 4, on page 3, line 21, I would suggest the addition of the following proviso:

Provided, That in making such determination the Commission, except under unusual circumstances, shall provide for the inclusion in employment plans of all high-level professional, administrative, and scientific positions peculiar to the agency.

Mr. MILLER. Will you please read that again?

Dr. FLEMMING. Certainly. [Reading:]

Provided, That in making such determinations the Commission, except under unusual circumstances, shall provide for the inclusion in employment plans of all high-level professional, administrative, and scientific positions, and positions peculiar to the agency.

If that were added or inserted as an amendment it would, of course, be in complete conformity with one specific recommendation of the Commission, that is, the Hoover Commission.

Then, I understand it is the intent of the Congress that these employment plans are primarily for the high-level professional and scientific positions.

I do not think that the Commission should be barred from exercising discretion, but it did seem to me that it would be very helpful

for the Commission to indicate its own conviction that generally for these particular positions, at these particular levels, that they can more effectively utilize these employment plans that are worked out with the various departments and agencies.

The CHAIRMAN. That carries out the general objective of this legislation?

Dr. FLEMMING. That is right.

The CHAIRMAN. The purpose is to let the various departments do their examining and recruitment at the level of scientific and professional positions?

Dr. FLEMMING. That is right.

The CHAIRMAN. And have the Commission only come in to positions like stenographers, typists, and clerks.

Dr. FLEMMING. That is right. I merely make the suggestion that it seems to me that this amendment would more clearly define the policy that the Congress has in mind.

Right along this same line I would suggest a similar amendment, and it is again in the interest of clarifying the objectives which the Congress has in mind in passing the bill, and I would like to suggest another amendment, to section 8, on page 5, line 15—yes, it is section 8, after the colon, I would suggest the addition of the following proviso:

Provided, That except under unusual circumstances, competitors for high-level professional, administrative, and scientific positions shall be rated by category.

In other words, that is the same type of amendment that I am suggesting there.

In addition to these specific amendments, I would like to suggest some additional amendments to the sections dealing with the problem of rating competitors.

On page 5, line 24, I would suggest striking the word "earned."

And on page 6, line 1, after the last comma, the insertion of these words: "who receives a passing grade."

Also on page 6, line 2, I would suggest striking the word "earned," and then on line 3, after the comma, following the word "act," insert the words "who receives a passing grade."

If this amendment were accepted it would be consistent with the recommendations of the Hoover Commission.

I would also like to say that personally I feel that if this amendment were accepted that it would strengthen the public acceptance of the concept of veterans' preference, because I am sure that the members of this committee have had the same kind of experience that I have had in dealing with and talking to citizens' groups, who raise the question of preference for veterans under the civil-service system. As you know, I concur wholeheartedly in the concept of preference for veterans, and the members of this committee know that I have testified along that line a good many times, but after stating my reasons for believing in the philosophy underlying preference for veterans, very often I am asked the specific question, "Well, under the veterans' preference system, is it true that a man who fails to qualify in a civil-service examination is given preference and is at times appointed to a position?"

And, of course, we have to reply, all of us, in the affirmative, and I get, and you get the reaction from citizens that that is not right. And

I think that most of us would feel the same way, that certainly we believe in the preference for veterans, but we believe that before preference is applied to a veteran he should demonstrate an ability to handle the position, the duties, and responsibilities of the job, in a satisfactory manner.

Of course, as members of this committee know, at least one veterans' organization has gone on record as favoring this kind of an amendment.

The CHAIRMAN. Which one?

Dr. FLEMMING. The Veterans of Foreign Wars. They had a bill before your committee, I believe, and I think before the Senate committee, which incorporated or suggested the incorporation of this amendment to the Veterans' Preference Act.

The CHAIRMAN. Under the present law, a disabled veteran, if he has only 1 percent disability, and if he makes 60 percent on his examination, and gets 10 percent additional for being disabled, he goes to the top of the list over any nondisabled veteran or nonveteran who may have made a much higher grade.

Dr. FLEMMING. That is right.

Dr. FLEMMING. That is as between veterans and nonveterans. But on the question of being fair to persons who are in the group of veterans, certainly the average citizen does react very negatively to the idea that there is a system under which a man in reality can fail to pass an examination and yet at the same time find himself at the top of the list and be given preferred treatment under such a system.

Mr. MILLER. There are other inequities in the Veterans' Preference Act on which we have been asked to give our views.

Dr. FLEMMING. I appreciate the problem, but I do feel that this is one amendment that could be made which would be fairly and generally acceptable not only to the citizens of this country as a whole but to the veterans themselves. Anyone explaining this situation to the veteran in his congressional district will immediately find he will say that is not fair, that is not right. And we want qualified people on these jobs.

So it seemed to us, as members of the Hoover Commission, that in the final analysis, there would be a strengthening of the public acceptance of the concept of the veterans' preference philosophy by providing that before a man is given preference he must at least get a passing grade. And, of course, the chairman's observation brings out, on the other hand, recommendations that we have made along that particular line, and that is that before the veteran is given disability preference he should have a disability rating of at least 10 percent, which is of course the rating which brings about compensation, that is, compensable disability.

And, also it seems to me that it is a fair and equitable thing to do for the veterans themselves, because it does not make good sense for a veteran, who has received a very minor injury, to be listed as a disabled veteran along with one who has lost an arm or a leg and who has a real disability as a result of service in the Armed Forces.

Now I have suggested specific language for amending this bill which would require a passing grade before a person is entitled to preference, and which would amend the Veterans' Preference Act, so as to provide that a person should not be classified as a disabled veteran unless he has a disability which has been rated 10 percent, or more. It would be necessary, as I see it, to introduce a new section in this particular

bill, amending specifically that section of the Veterans' Preference Act which deals with that matter.

I did not have access to a copy of the Veterans' Preference Act and therefore I cannot suggest the specific section, but I am sure the legislative counsel can.

And I certainly would urge the committee to give careful consideration to the possibility of amending the Veterans' Preference Act along those two lines, and in that way increase the acceptance of the conception of the preference for veterans by the citizens of this country. In other words, it is a public-relations job for veterans' preference.

There is one suggestion that I would like to make concerning section 8. The committee will note at the present time that it reads as follows:

The Commission, or a department as authorized by an approved employment plan, shall rate competitors for selection to competitive civil-service positions either (1) numerically on a scale of 100, or (2) by categories describing the degrees of qualifications and capabilities of competitors.

Under the wording of (2) it would, of course, be possible for the Commission to authorize the establishment of a great many categories.

As the members of the committee undoubtedly recall, the Hoover Commission in making its recommendations along this line suggested that personnel should be placed in one of four categories: Outstanding, well qualified, qualified, or unqualified. And, I would suggest the desirability of the committee considering the possibility of an amendment to begin in line 13, after the word "by," strike out the balance of that sentence, and substitute therefore the following:

By placing them in categories of outstanding, well qualified, qualified, and unqualified.

I appreciate the fact that there can be argument both ways; that it can be argued that there is something to be said in favor of giving the Commission discretion to set up 10 or 15 categories if they want to. On the other hand, it seems to me, if that were done they would be virtually back to numerical rating again, and that really, if you want to utilize the category type of rating for these high-level positions, that it is better to do it along the line suggested by the Hoover Commission.

Next, Mr. Chairman, I would like to suggest on page 11 the inclusion of a new section, which if inserted, would carry out another specific recommendation of the Hoover Commission. This new section could be placed right ahead of the present section 14, and that section renumbered as 15, and so on through to the end of the bill.

Before reading the proposed amendment I would like to read this specific recommendation which the Hoover Commission made. We said:

In carrying out their responsibilities under this program of decentralization, all appointing officers in the Federal service should be subject to the provisions of a statute such as that establishing the Tennessee Valley Authority which calls for the removal of persons who permit political considerations to govern appointments.

I suggest language that would accomplish that particular objective, which might read as follows:

In the selection of employees under the provisions of this act, and in the promotion of employees or officials, no political test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be given

and made on the basis of merit and efficiency. Any person appointed by the President, or by the President by and with the advice and consent of the Senate, who is found by the President to be guilty of a violation of this section, shall be removed from office by the President, and any appointee of the head of a department as defined in this act who is found by the head to be guilty of a violation of this section shall be removed from office by said head; *Provided*, That nothing in this section shall be construed as prohibiting members of Congress and other public officials from making representations relative to the qualification of persons competing for positions in the classified service, or relative to the qualification of employees in civil service who are being considered for promotions within the classified service.

I think that is the proposed section which we discussed, the particular recommendation of the Commission, when I appeared before the committee the last time.

The CHAIRMAN. Do you think we could get favorable consideration of that provision?

Dr. FLEMMING. I might say I am inclined to be a little optimistic, in view of the fact that the Congress did enact a similar section governing the operations of the Tennessee Valley Authority.

I can give you my own experience in the Civil Service Commission, because, as you know, there have been similar recommendations incorporated in the civil-service laws over the years. There was a regulation at one time which was to the effect that a Member of Congress could not write a letter relative to the qualification of a person seeking employment. I think that is utterly unrealistic. I feel personally that in many instances a Member of Congress is in the best position to provide competent and worth-while information relative to the qualification of a person for a job in the Federal service. Consequently, I feel that the Tennessee Valley Authority Act as it now stands, that particular section of the TVA Act, as it now stands, is somewhat unrealistic, and that is why personally I would suggest going beyond the specific provisions of the Tennessee Valley Authority Act and make it perfectly clear that the executive branch should welcome statements from Members of Congress and other public officials relative to the qualifications of persons seeking positions in the Federal Government.

The CHAIRMAN. Dr. Flemming, would not an agency head, in some of the agencies, under that kind of language, lean over backward and absolutely refuse to appoint a man who some Congressman recommended as being capable, and perhaps be afraid to appoint him?

Dr. FLEMMING. Personally I would feel that if they did take that view of it, it would be very unfortunate. I am in complete agreement with you on that, but it seems to me—I am being dogmatic about this specific language, Mr. Chairman—it does seem to me that a provision of this kind is worth while if you are going to move in the particular direction of placing upon the heads of the departments this kind of responsibility for recruitment.

Now I think that the language can be worked out in such a way as to make it perfectly clear, that appointing officers should not receive political endorsements, but that they should receive recommendations or statements from Members of Congress relative to the qualification of persons for positions in the public service. I know, as every Member of Congress, of this committee knows, at least, that in many instances, the Members of Congress have pertinent information relative to the applicant for a job, information which is

worth while to the agency or the commission, and information which they would never know about otherwise.

Mr. REES. Since I have been a Member of the House, I have not been concerned with that problem at all. On only very few occasions have I been asked to furnish any information with regard to an applicant for a position. Up to this time, at least, the situation which you call attention to, has not been of any concern to me, because I have not been consulted, and of course have not asked to be consulted, as the gentleman testifying well knows.

Dr. FLEMMING. Yes.

Mr. MILLER. I would like to say that I have never been consulted on these matters either, but I was just wondering in connection with the suggestion you made, if you do not think that a Congressman's activity on behalf of some applicant might be bad for the applicant? I think there might be some danger in that.

Dr. FLEMMING. Yes.

Mr. REES. I had an experience in one case in reference to an applicant for a position, which was unfortunate for him. In other words, there was adverse consideration, the implication being that congressional pressure was being used in that particular case.

Dr. FLEMMING. What I am trying to say in this suggestion, Mr. Chairman, is just this, that as this whole problem of decentralization of the recruitment activities has been considered both in and out of Congress, fears have been expressed to the effect that it might open up a situation in such a way as to permit the spoils system.

And, of course, when you consider it, as the Commission has, when we were sitting around the conference table considering this problem, that question was raised, and it seemed to us that it would be very helpful and a very wholesome thing if the Congress included in legislation of this kind a statement of policy so as to make it perfectly clear as to what Congress itself intended in this particular area.

Mr. MILLER. Dr. Flemming, I have not been so much concerned with this becoming a spoils system for partisan politics, but rather a spoils system in which the head of an agency could, in effect, set up what amounts to a spoils system within the Government, without people on the political level participating.

Dr. FLEMMING. That is right.

Mr. MILLER. Of course, you speak of fear that people have, and I think you should know—and I do not want to embarrass you—but I should like to ask you if, in the present civil-service system, politics, as such, plays any major part? Is it not free from partisan politics?

Dr. FLEMING. Mr. Miller, it is always essential in answering questions of that kind to break them down.

Mr. MILLER. I do not want to embarrass you, of course.

Dr. FLEMMING. You have not embarrassed me in the least, but I cannot answer categorically "Yes," or "No." You have got to take a look at certain parts of the civil service. For example, theoretically, the postmasters are under the Civil Service Act and are subject to civil-service examination, and yet practically we know that a man is not going to be appointed postmaster unless he has the proper political endorsement.

Mr. MILLER. I should have excepted certain positions in the Post Office Department, such as the appointment of postmasters. However, within the Post Office Department itself, promotions in the field

or in the departmental service of the Post Office, inspectors and others are free from politics.

Dr. FLEMMING. I was just going to say, Congressman Miller——

Mr. REES. Rural carriers.

Dr. FLEMMING. I was going to say that rural carriers are in another category. I think that all of us, to be perfectly frank, would have to admit that political endorsement plays a very major part in the appointment of persons as rural carriers.

Now on the other hand I am in agreement with you that within the Post Office Department that there are some positions and divisions in the Post Office Department which operate in the way in which the merit system should operate. As far as I was able to experience during my period of service on the Commission, the Inspection Service of the Post Office Department is carried on in a very fine way.

Over the period of the last 30 to 35 years, the executive branch of the Government has made substantial progress in the direction of working out its personnel policy so that politics would not play any major part in the appointments. Take all of the scientific laboratories, for example. I do not know that any of you would be very much concerned about the extent to which politics enters into the making of any appointments in those laboratories.

I think we have made very, very fine progress. Now we are considering a bill like this, moving definitely forward in the direction of decentralization, and it did seem to us as members of the Hoover Commission, that it would be a wholesome thing if the Congress enacted something comparable to section 6 of the Tennessee Valley Authority Act. I would not be dogmatic as to the specific language. I suggest that section 6, of the Tennessee Valley Authority Act, be made to apply to the service as a whole; and that undoubtedly better language could be suggested, which would be more realistic. But I do think that Congress would be rendering a fine service to the individuals in the career service people if a section comparable to this were included. But I think it should be a new, realistic section, because I do feel that a recommendation that a Member of Congress shall not write relative to the qualification of an applicant for a job is just fundamentally wrong, wrong in that such a ruling is unrealistic, and in the further fact that it also deprives the Commission or the agency of the best evidence that they can get, very often, on the qualification of persons for a job.

Mr. CARLYLE. Dr. Flemming, do you not think it is very wholesome that an applicant should be well endorsed in the local area before he is appointed postmaster?

Dr. FLEMMING. Personally, as far as the postmaster situation is concerned, I concur wholeheartedly in the recommendation that the Hoover Commission has made that the present requirement of nomination by the President and confirmation by the Senate should be eliminated, but having said that, I am in complete agreement with the present examining policies of the Civil Service Commission in that area, in that they send people into the community in order to find out what representative citizens in the community think about the applicants. I think postmasters should always be selected on the basis of their standing within the community, but I do not think testimony from the leaders of one political party or another political party should be controlling in determining who should get the job.

Mr. CARLYLE. But do you not know that it is impossible to find a suitable person to act as postmaster who has no political affiliations?

Dr. FLEMMING. I certainly would not penalize him because he had political affiliations. My only point is this. Take the present situation. If 10 people apply for the job of postmaster, and if three of them are rated as qualified, let us say, and make a passing grade, if all three of them happen to be Republicans, I would think that it would make good sense for one of the Republicans to get that particular job as postmaster.

Mr. CARLYLE. Well, you would not suggest, then, that we try to find a postmaster who has no political affiliations at all.

Dr. FLEMMING. No. I would say this, that if I were rating applicants for a postmaster's job, and if I had before me a person who had not taken any interest in the activities of one of the two major political parties, I would hold that against him, because I would feel that he had not discharged his responsibilities as a citizen.

The CHAIRMAN. Dr. Flemming, the Hoover Commission lays great importance and stress on the fact that postmasters should not be confirmed by the Senate.

Dr. FLEMMING. That is right.

The CHAIRMAN. Do you realize that only an infinitesimal number of applications for appointment as postmasters are ever rejected by the Senate? Ninety-nine percent of the nominations for postmaster that go to the Senate are confirmed.

Dr. FLEMMING. That is right.

The CHAIRMAN. Now, how would your recommendation so greatly improve the system, Doctor?

Dr. FLEMMING. Well, Mr. Chairman, based on my own experience, I would say that the reason why 99 percent or more are confirmed is that some real discretion is exercised on the part of those who submit the nominations for consideration by the President, and by the President himself, to make sure that those nominated belong to the political party that happens to be in control of the administration at any given time.

The CHAIRMAN. How would the recommendation of the Commission change that situation if it took away from the Senate the right of confirmation?

Dr. FLEMMING. It brings us right back to the question which Congressman Miller asked, Mr. Chairman, that if postmasters were regarded as administrative officers to be appointed in the same manner that administrative officers are appointed within the Department of Agriculture, the Department of Commerce, or the Treasury Department, and so forth, it would mean that their positions would be subject to the provisions of open competition which they are now.

The CHAIRMAN. Yes.

Dr. FLEMMING. If there were included in the first three persons on the register, let me say for the sake of illustration again, three Republicans, then one of those Republicans would get the job, even though the Democrats might happen to be in control of the administration at that time, and the same thing would be true if the situation were completely reversed. If the Republicans happened to be in power, and there were three Democrats under consideration our recommendation would mean that one of those Democrats would get the job, because we know today in the Department of Agriculture, the De-

partment of Commerce, and other Departments, it is possible for a Republican to move into one of the career administrative jobs in those Departments. Now, if we did away with this requirement of senatorial confirmation it would be possible for a career Republican within the Post Office Department to at all times be considered and be given an appointment as postmaster.

I know that does happen at the present time, as far as rural carriers are concerned, and, really, that underlines the argument that I am making for the elimination of this requirement of confirmation by the Senate. But I do not think, Mr. Chairman, that over the period of the last few years, very many Republicans have been confirmed as postmasters, even though I know every now and then some Republicans have found their way onto the eligible list.

There have been one or two exceptions to that. For example, a disabled veteran who happened to be a Republican was at one time on an eligible list and I recall one instance where there was a battle fought on that in the Senate. That particular person was confirmed for that particular position, but it is the exception that proves the rule. The only reason we made that recommendation was to open up these very important positions in the Post Office Department to the career civil servant irrespective of his previous or present political affiliation.

The CHAIRMAN. Here is an observation I should like to make, Doctor, with reference to your recommendation about taking away the confirmation of postmasters by the Senate: At the present time that is the prerogative of the Senate. Now, if the Senate wishes to surrender that prerogative, or that authority, it is perfectly agreeable to me, and I think it is to this committee, to join with the Senate on that, but I do think that the Senate should act first on that recommendation. Would it not be rather presumptuous for this committee to take the lead and make that recommendation to the House before the Senate acts on it?

Dr. FLEMMING. Of course, Mr. Chairman, I would be very happy to see anyone take the lead on that particular recommendation. I certainly can sympathize with the point of view you express, and the matter is under active consideration in the Senate at the present time.

Mr. CROOK. Mr. Chairman.

The CHAIRMAN. Mr. Crook.

Mr. CROOK. Doctor, you mention the fact that no Republicans had been confirmed in recent years. I also remember during the Eightieth Congress we had temporary postmasters who were up for appointment. They were not confirmed, and the reason was political.

Dr. FLEMMING. Yes.

Mr. CROOK. That is very obvious.

Dr. FLEMMING. That is right.

Mr. CROOK. What is the best plan in order to take politics out of it, or is it possible to take politics out of the appointment of postmasters? I almost wish that there were some way of taking some of this responsibility off of the shoulders of Congress.

Dr. FLEMMING. That is right.

Mr. CROOK. But I cannot see how you are going to eliminate politics by your plan, because politics is in everything.

Dr. FLEMMING. I appreciate the fact that you certainly cannot get Utopia overnight in this particular area any more than you can in any other area, and I certainly sympathize with your point of view,

because I know I have talked with Members of Congress who said every time you appoint a postmaster you then have one fellow running around the district who says, "Of course, I was appointed. I got the job because I was entitled to it." But you also have 24 other fellows and their relatives running around the district who are sore because they did not get the appointment.

Mr. CROOK. Any particular applicant who does not have the recommendations of the political party in power, is not going to receive consideration.

Dr. FLEMMING. My thought is that just as long as you have the requirement of senatorial confirmation the administration in power is going to send to the Senate for confirmation representatives of their own party because they know that is about the only way to get them confirmed.

Mr. CROOK. Suppose you do not send the names to the Senate for confirmation, what difference will that make?

Dr. FLEMMING. Let us assume you just make it part of the regular civil service system, just as bureau chiefs' jobs or assistant bureau chiefs' jobs in Agriculture or in Commerce are part of the regular civil service set-up, it seems to me you would still want to provide for filling jobs in one or two ways, either by promotion or by open competition. Today, as you know, you can fill a job by promotion, and I think I should say, in all fairness, that over the period of the last few years there has been a certain trend in the direction of recommending for promotion to the office of postmaster people who are part of the career service of the Post Office Department.

Mr. CROOK. That is in accord with the Hoover Commission recommendation, is it not?

Dr. FLEMMING. That is perfectly right. It seems to me that it represents a very wholesome trend. If we do away with this requirement of senatorial confirmation it would mean that you would fill a job by open civil service competition or by promotion from within.

I would be the first to agree that if there were two Democrats and one Republican on the list that the Postmaster General could still draw from those, between the Democrats and the one Republican.

On the other hand, if you have a situation where you had three Republicans, he could go ahead and appoint one Republican. If you had the first situation I described, if he was convinced and he thought that the fellow whose political affiliations were Republican was the most competent and the best qualified and would render the best service he could appoint him. He would not always do it, I know. It will take 5, 10, 15, or 20 years to develop a climate of opinion which would be favorable to action like that.

Our only point, as a Commission, was that you will never move in that direction as long as there is this requirement of senatorial confirmation. The only way to move in that direction is to remove the requirement of senatorial confirmation.

Mr. MILLER. Going hand in hand with that, should we remove the provision of law which requires the postmaster to come from the area in which he is going to serve, and make it purely a career job within the Post Office? In other words, the Army engineers do a very efficient job. They shift their divisional engineers, and their district engineers from place to place occasionally. Now, a postmaster is primarily an administrator, and should be.

Dr. FLEMMING. That is right.

Mr. MILLER. And the Railway Express Agency will take its director or its representative in a small community, and when there is a vacancy in a larger community they will place him there. He has gained experience and has demonstrated his ability, so he is shifted into this larger community. Why not do that in the Post Office?

Dr. FLEMMING. I think if the Congress should repeal that particular law, and if I were still a member of the Civil Service Commission, passing upon the qualifications of applicants for the jobs of postmaster, that I would think a long while before I did not require the applicants to come from that particular area, because I do believe that there is an awful lot to be said in favor of the postmaster being known to the community, and knowing the problems of the community and being generally acceptable to the residents of the community.

The CHAIRMAN. Mr. Miller suggests a fine theory, but let us get down to earth and talk about the particular conditions arising.

Mr. CARLYLE. Let us assume that there is as much danger there as you claim to see. However, the Democrat and the Republican both have the same opportunity to take the examination.

Dr. FLEMMING. For postmaster?

Mr. CARLYLE. That is right, and for rural mail carrier. And they have the same opportunity to pass the examination.

Dr. FLEMMING. That is right.

Mr. CARLYLE. They are given the same type of grading. They are given the same credit in taking the examination.

Dr. FLEMMING. As far as the Civil Service Commission is concerned it does not know whether an applicant is a Democrat or Republican.

Mr. CARLYLE. That is right.

Dr. FLEMMING. Yes.

Mr. CARLYLE. And if a Democrat or a Republican happens to occupy the proper place on the register there is no way of bypassing him, is there?

Dr. FLEMMING. Well, the Postmaster General and the President in the submission of nominations have the right to choose any one of the first three on the list, except, of course, if it is a disabled veteran that is at the top of the list, they do not have the right to pass over the disabled veteran in order to reach a nonveteran without giving an acceptable reason.

Mr. CARLYLE. If there is a Republican in a Democratic county, or a Democrat in a Republican county if he happens to get in the proper position on the register there is no way of passing over either one, is there?

Dr. FLEMMING. Going back to that hypothetical case, if there were three Republicans on the list, that is right, one of those Republicans would have to be submitted to the Senate, but I think I am correct in my statement that the general practice in the past has been that if a Republican is submitted to the Senate, under present conditions, under the circumstances of our hypothetical case, that the Senate would undoubtedly refuse to confirm him. The Post Office Department would then come back to the Civil Service and say we now have an incomplete list, we have only two names, and we need a third name. The fourth fellow on the list might be a Democrat, and he would then become No. 3 on the list, and his name would be submitted to the Senate, and he would be confirmed.

Mr. CARLYLE. Do you know of any part of our Government, local, State, or Federal, which is completely removed from politics?

Dr. FLEMMING. No, I do not, but, Mr. Congressman, I do not want to be put in the position of condemning in any way, shape, or manner, as I indicated before, political activity. In fact, I spend a good deal of my time now trying to say to citizens as citizens that they should be participating more in the activities of the political parties than they are at the present time.

I appreciate that as long as we are around this problem will be with us, but I do feel that whatever we can do to encourage a good, sound business administration of the affairs of a Department like the Post Office Department we should do.

I am sure of the fact that if the requirement of Senate confirmation were eliminated that the rank and file of the employees of the Post Office Department would feel that they had more of an opportunity, irrespective of their political affiliation, to get some of these really important jobs than they have at the present time. I am sure that over a period of 5 or 10 years that, as a matter of fact, more of them would have the opportunity than they have at the present time. It is a case of moving in the right direction.

Mr. CARLYLE. Well, would it be wholesome to appoint a Republican postmaster in a very strong Democratic area, or a Democrat in a Republican area? What do you say about that, Doctor?

Dr. FLEMMING. I think that if he had all of the proper qualifications he could ride out that situation all right.

The CHAIRMAN. Mr. Rees has some questions to ask, Doctor.

Mr. REES. I have just two or three observations to make regarding this matter.

Dr. FLEMMING. Yes.

Mr. REES. I think that your recommendation with respect to the confirmation of postmasters has been overpublicized. We are getting hundreds of letters saying that if you follow the Hoover Commission's recommendation that postmasters be not confirmed by the Senate, it will be taken out of politics.

I appreciate your observations on this, but just that one thing alone, in my judgment, will make very little difference.

Secondly, you have suggested that a veteran be required to make a passing grade.

Dr. FLEMMING. That is right.

Mr. REES. I do not find that in the recommendations of the Hoover Commission. I may have overlooked it, but I do not find where the Hoover Commission says a veteran has to make a passing grade.

Dr. FLEMMING. You are correct, there is no affirmative recommendation along that particular line, for this reason, Mr. Rees, that in our recommendation we visualize all people being rated on the basis of being placed in one of four categories.

Mr. REES. I appreciate that, but what I said was that you did not include it in your recommendations.

Dr. FLEMMING. If you will turn to page 18, under recommendation No. 7 we do state:

All applicants for civil service posts should be grouped into categories such as "outstanding," "well qualified," "qualified," and "unqualified."

In other words, we do not visualize numerical ratings at all.

Mr. REES. Do you mean to say that implies it?

Dr. FLEMMING. Definitely, and in the discussions, Congressman Rees, that took place in the Commission, I may say I am very firm when I say that was the conviction of the members of our Commission.

Mr. REES. I wanted to clear it up.

Dr. FLEMMING. I appreciate that, because your point is right as to what the written report contains.

Mr. REES. Then, there is another point, and that is with respect to the matter of consulting Congress. I certainly would not want to be misunderstood, I think it is fair that Members of Congress should be consulted.

Dr. FLEMMING. So do I.

Mr. REES. And that they should be asked if they know about a certain individual, whether he is qualified for the job, and whether he is the right person, a man or woman of good character, reputation, or whatever it is. I see no reason why that should not be done.

Dr. FLEMMING. I agree with you.

Mr. REES. I know you agree with me too that congressional pressure should not be used to see that a person gets the job, but I see no reason why Members of Congress should not be consulted.

Dr. FLEMMING. I agree with you.

Mr. Chairman, before Congressman Rees goes I had one other amendment that I would like to suggest, and this grows out of my own experience as a member of the Commission during a few years of the war program.

As I read section 3 (a) as it now stands, and then as I read that under the Civil Service Act of 1883, I have the feeling that it may operate in such a manner as not to make possible the discretion and elbow room which the executive branch will need in the event of an emergency, and I, therefore, would suggest this amendment.

After the word "merit" that the period become a colon and following that there should be inserted this:

Provided, however, That upon the declaration of a national emergency by the President or by joint resolution of the Congress the Commission, at the direction of the President, may modify or set aside the principle of open competition to the extent such action is necessary in order to expedite and facilitate the recruitment of the best qualified and available personnel for Federal positions.

In other words, it seems to me that there may be over-all legislation of some kind dealing with your manpower situation, and that this committee possibly would like to put the civil service system in a position where it could relate itself to whatever emergency situation might develop.

Under the Civil Service Act of 1883 there is sufficient authority resting in the President now to do that, but I rather have the feeling that if this bill should pass with section 3 (a) as it is now worded, that there might be some question as to his authority and, consequently, it seemed to me that language of this kind might be very helpful if an emergency situation should develop.

Mr. REES. I appreciate your testimony, Dr. Flemming.

Dr. FLEMMING. Thank you.

The CHAIRMAN. Doctor, I am interested in taking steps to guard against any head of an agency building up a little personal empire or kingdom through personal favoritism, which has been very prevalent in the bureaus and agencies of our Government, and we

certainly do not want to adopt any legislation that would encourage in any way that kind of a system.

Mr. REES. Yes; I agree wholeheartedly.

Dr. FLEMMING. I do too.

The CHAIRMAN. I think many more employees are put in important positions in these Departments and agencies through the personal choice of some supervisor or administrator rather than through political preference.

Mr. GROSS. I too want to indorse that, Mr. Chairman. I think that one of the greatest vices in Government is personal politics in the Departments and agencies of the Government.

Dr. FLEMMING. Yes; I would certainly concur in your observation, and would like to make this further observation: In my judgment, if this bill, along with the amendments that have been suggested, is passed by the Congress, that you are certainly not going to have the development of a situation of that kind, and I think you are taking a step which will enable the Civil Service Commission to work with the Departments to move in the other direction.

The CHAIRMAN. The Chamber of Commerce comes here and says that the Government agencies should have complete and total authority to do all of their recruiting, and that we should make nothing out of the Civil Service Commission except a policy-making body.

Dr. FLEMMING. Mr. Chairman, I think it is clear from the recommendations of the Hoover Commission that we, as a Commission, would not concur in that.

The CHAIRMAN. You do not join with the United States Chamber of Commerce in that recommendation?

Dr. FLEMMING. You will recall, if I may go right back to our specific recommendation, that we said:

The agencies should be required to submit their proposed recruiting and examining programs to the Civil Service Commission for approval with the further understanding that the actual conduct of the programs will be subject to inspection by the Commission to enforce adherence to the Civil Service Act, and the Veterans Preference Act.

I believe I can well recall testifying along the same line when I was here a few months ago, that I believe the Commission should have the responsibility for approving these employment plans, and then when the plans have been approved I believe that the departments should have the authority to act within those plans. At the same time, I believe the Civil Service Commission should be put in a position where they can carry forward this inspection program, and that they should be put in the position where, when they find that there is not adherence to the employment plan they can move in and take corrective action. I do not know of any other way in which we can really maintain adherence to the merit system.

Mr. REES. Any suggestion which you can offer to carry out the Chairman's observations will be most helpful to us.

Dr. FLEMMING. Thank you, Mr. Rees.

Mr. MILLER. I agree that H. R. 5181 is, perhaps, idealistic, but personally I am willing to go along with H. R. 8925, and I will take it as it is, or with your amendments included.

Dr. FLEMMING. Frankly, if H. R. 8925 is passed with the amendments I have suggested, I would be sympathetic to it, and feel that

it represents a major step in the direction of achieving the objectives of the Hoover Commission.

The CHAIRMAN. Now the Citizen's Committee does not join in that enthusiastic approval, Dr. Flemming.

Dr. FLEMMING. I think, possibly, they might concur in that last statement I just made because, for example, the amendment suggested by Mr. Stauffacher is a very good amendment.

Mr. BUCKLEY. Mr. Chairman.

The CHAIRMAN. Mr. Buckley.

Mr. BUCKLEY. Is it not a fact, Doctor, that there is politics in almost every place that you happen to be?

Dr. FLEMMING. Congressman, I would not disagree with you for one minute. There is no question about that at all.

The complete objective, I think, that all of us have in mind here is to make sure of the fact that in filling jobs that call for administrative ability and skill that the people who are within the career service have the opportunity of going into those jobs and that they should not be penalized because of the fact that they happen to be affiliated with one party or the other. That is all that it comes down to.

We have got to have more activity on the part of citizens in the field of politics than we have now, if we are going to strengthen the foundations on which this Government rests, but here we have a group of people who have said:

Well, as far as I am concerned, I am going to try to make the Government service my life work. I am willing to move along that particular line, I am willing to start at a low level, but I would like to have the opportunity, if I can demonstrate that I am qualified, to move up to some more important job in the organization.

In the career service, it seems to me that people should be able to look forward to doing that, whether they are registered as Democrats or Republicans. That is all I am contending for.

Mr. BUCKLEY. Would it not be an impossible task?

Dr. FLEMMING. No; I do not think so.

There was a time, Congressman, in our history when undoubtedly politics played a great part in the appointment of people even to scientific positions in our laboratories. I do not think that is true today. We have made considerable progress toward the objective that I have set, and all the Hoover Commission suggests is that we can make still further progress.

Mr. CROOK. In a service like the post office: Take, for example, an individual who passes high in his examination and takes a position; is that going to lend itself to efficiency in the Department as much as advancing persons who have had years of service and much more experience?

Dr. FLEMMING. I think that both objectives will be realized.

It seems to me that if we can set up a system in such a way that time and again persons who are really competent and who have had considerable experience within the service are put into these key jobs, then it would improve the efficiency of the service. They know the service, they know the problems of the service, and you do not have to take 1, 2, 3, 4, or 5 years to break them in, and they know where to turn to and who to turn to when they deal with specific situations.

In other words, in business, we feel that if we can, in most instances, promote people from within, that it is a good sound personnel policy to do so. We always want to keep the door open so that we can bring

in new people into the organization if needed, and I feel that should be true in the Government service.

Certainly, in an educational institution, where opportunities for promotion open up we try to promote within, always reserving the right to say, "Well, we do not think we have anybody from within who is well enough qualified to fill this position," and we therefore go on the outside and get somebody who has had experience outside of our organization and bring him in, but, by and large, if you can follow the policy of promotion from within I think you improve efficiency and really get better management and better production in the long run from your employees.

Mr. CROOK. There are some positions that can be filled more readily from within, but I can think of some of the higher positions where more executive ability is demanded. It does seem to me that a reasonable amount of experience is necessary in order to make an individual efficient in his position.

In the field of engineering we certainly would not step out of the field and pick up a man who has no knowledge of engineering and designing to construct a theater or other building. We would want someone who has had the experience, but there are places in other types of work where you could use certain inexperienced men. It is the efficiency that I am speaking of now.

Dr. FLEMMING. Take my own State of Ohio, and take the city of Cleveland where there has been considerable discussion in the newspapers as to whether or not a man should be promoted to postmaster of the Cleveland Post Office who has served in that post office for a considerable period of time or whether someone should be brought in from the outside. Now, if I recall correctly, they arrived at the decision that the person who has served within the post office there for a considerable period of time should be promoted.

I think that is all, Mr. Chairman.

The CHAIRMAN. His nomination has already been sent to the Senate. He is the assistant postmaster out there——

Dr. FLEMMING. That is right. I think that is a very wholesome trend, even though I understand the person who is being pushed from the outside is a very able person likewise, but it seems to me, everything else being equal, that it is a good move to promote your own men from within.

Mr. MILLER. The postmastership of Berkeley was quite recently given to a man who was assistant postmaster, and whose appointment was not based upon political considerations.

Dr. FLEMMING. Personally I think that is right, to pick a person of that kind without regard to his political affiliation. All we are recommending is a proposal that we think would move the Federal Government in that direction even more rapidly than it is moving at the present time.

The CHAIRMAN. Dr. Flemming, if the committee, in its judgment, should decide to report out this bill with the amendments to sections 3 (a) and 3 (b) as you suggest, and also the amendment suggested by Mr. Stauffacher of the Bureau of the Budget with reference to section 3 (c), and then did not act on the other amendments proposed by you relating to veterans' preference, and so forth, what would you then say about the action of our committee?

Dr. FLEMMING. Well, you put me in a rather tight situation now, because, as you can see, I believe in all of the recommendations that the Hoover Commission has made in this particular area. But as far as I am concerned, I will be perfectly frank and say that I feel that the amendments to which you refer are the most important of those that I have proposed. However, I would urge that very careful consideration be given to the amendments suggested to section 4 (a), and also the amendments I have suggested for section 8, because I think that would more clearly define the policy of the Congress, at least the policy that it seems to me the members of this committee have in mind, and it would certainly very clearly and definitely carry out the recommendations of the Hoover Commission.

The CHAIRMAN. Of course, it is not always easy to get all the desirable legislation that you and I may wish or desire.

Dr. FLEMMING. I appreciate that.

The CHAIRMAN. And it may be a question here what legislation that we can get enacted without too much opposition.

Dr. FLEMMING. That is right.

The CHAIRMAN. That is why I ask you that question.

Dr. FLEMMING. It seems to me, Mr. Chairman, that the amendments to sections 4 and 8 are more or less technical amendments that would not create any considerable amount of opposition.

I do hope that the committee will give very careful consideration to the possibility of requiring a passing grade before a veteran gets preference. Although I know that there are some opposed to it I also know that there is a considerable body on the part of the public generally and upon the part of veterans in favor of a proposal of that kind. It seems to me it is an opportunity to clean up that situation.

The CHAIRMAN. That proposal is being considered by a subcommittee headed by Mr. Davis. Other legislation dealing with reductions in force affecting career employees and veterans is under consideration by a subcommittee of which Mr. Miller is chairman.

Dr. FLEMMING. Right. I appreciate the problems involved in the reduction in force and, of course, we made some recommendation on that. But it seems to me this is one amendment, in fact, that can be separated from the reduction in force issue and more appropriately belongs in a bill dealing with recruitment and placement rather than in a bill dealing with reduction in force.

Mr. MILLER. It is a separate problem.

Dr. FLEMMING. Yes. Also, I appreciate very much the opportunity of discussing the possibility of including a section somewhat comparable to the TVA section. But, again, I think when we move in this direction, the Congress should indicate rather clearly just what its policy is in this area.

I would like to make one additional suggestion by way of a technical amendment suggested to me in a conversation I had with Mr. Stauffacher. His suggestion was that a new section be added at the end, a short section, which would read somewhat as follows:

In administering this act, the provisions of Reorganization Plan No. 5 of 1949 should apply.

They tell me the reason they are making that particular suggestion is that Reorganization Plan No. 5 of 1949 dealing with the reorganization of the Civil Service Commission referred to the Civil Service Act

of 1883 and the Classification Act of 1923. Consequently, there is some question as to whether or not it would be applicable to new acts passed by Congress, and therefore it probably would be a good thing to add that section.

The CHAIRMAN. That is a technical amendment.

Dr. FLEMMING. That is purely a technical amendment. Your Legislative Counsel can advise you on that, but I understand there is some question as to whether or not it would be desirable to do that.

The CHAIRMAN. Are there any other questions of the witness? Thank you very much, Dr. Flemming.

Dr. FLEMMING. Mr. Chairman and members of the committee, I certainly appreciate your willingness to hear me on a Saturday morning, because I appreciate the difficulties involved. I am sorry I was tied up so I could not get in yesterday. I appreciate very much the opportunity to testify on this bill.

Certainly, as one member of the Commission, I am enthusiastic over the fact that this committee is giving careful and thorough consideration to what we regard as really among our most important recommendations, namely, our recommendation to clarify the whole area of responsibility for recruitment and placement.

The CHAIRMAN. On behalf of the committee, I wish to thank you for your cooperation and advice. Your statement has been very helpful and informative.

Dr. FLEMMING. Thank you very much.

The CHAIRMAN. Now, I see representatives of the Citizens Committee are here, and I would like to ask if they endorse and approve the statement of Dr. Flemming in reference to this legislation.

STATEMENT OF CHARLES B. COATES, VICE PRESIDENT AND GENERAL MANAGER, ACCOMPANIED BY ROBERT L. McCORMICK, RESEARCH DIRECTOR, CITIZENS COMMITTEE FOR THE HOOVER REPORT

Mr. COATES. Mr. Chairman, I would like to begin by expressing our thanks to you and your committee for taking a Saturday morning to hold this hearing and to avail yourselves of the counsel and experience of Dr. Flemming which has been so helpful and which, to us, is clear evidence of the earnest desire of this committee to make a real achievement in legislation in this area.

I believe the other day when we were discussing the purposes of the Citizens Committee, we said that one of them was to inform the public concerning the progress of the reorganization program, the problems encountered, and the achievements of the Congress and the executive branch. Another is that of maintaining continuity in the point of view of the Commission, which no longer exists legally, and the Congress, and to that end the appearance of Dr. Flemming here today has been most helpful.

We were asked the other day if we felt that the bill as written was one which we could inform our members was squarely based on the report of the Commission and to an extent tended to accomplish the Hoover Commission's objectives, and I was forced to say at the time that we did not think so, which was my purpose in urging the presence of Dr. Flemming.

We were asked, further, if we proposed amendments to the bill as then written, and there, again, we wanted very much to avail ourselves of Dr. Flemming's counsel.

I will say now that we concur completely with Dr. Flemming in the view that the bill, if amended according to his suggestion, would be one which I believe we could endorse. He described it as a major step, and I believe that is a very accurate description of the bill in its full potential, with the amendments which he suggests.

The CHAIRMAN. Thank you very much.

Do you concur with that statement, Mr. McCormick?

Mr. McCORMICK. Yes, sir. I would say it is a tremendous step forward if we can get a bill amended as he suggests.

The CHAIRMAN. Now, I see Mr. Whittlesey is here, representing the United States Chamber of Commerce.

Mr. Whittlesey, you have heard Dr. Flemming's testimony. In view of the fact that you stated day before yesterday: "I should like to say we believe that the enactment of H. R. 8925, far from advancing the cause of governmental reorganization, would actually be retarding it, and we urge the committee to reject the bill," what would be your view now?

STATEMENT OF JOHN WHITTLESEY, ASSISTANT MANAGER FOR LABOR RELATIONS, UNITED STATES CHAMBER OF COMMERCE

Mr. WHITTLESEY. Having heard Dr. Flemming's testimony, which I think was a very splendid piece of work, before your committee, I would like to commend this committee for the careful and detailed consideration it is giving to this whole problem of Federal personnel management.

May I say, also, in our testimony of last Wednesday, we did make this statement: we did endorse H. R. 5181. Our reasons for doing that were simply and solely that we are concerned that the recommendations of the Hoover Commission be carried out. We felt then that H. R. 5181 would do that and that H. R. 8925 would not. At the same time, I do not think we would be wedded to any particular bill, so long as that bill did carry out the recommendations of the Hoover Commission and, by way of preliminary, if H. R. 8925 as amended by the suggestions of Dr. Flemming would carry out the recommendations of the Hoover Commission, then I think we would certainly commend it to you.

Now, with that slight preliminary, I want to endorse what Dr. Fleming has said before your committee today. As I said, it was a splendid piece of testimony. It certainly comes from a man who has had wide experience and is a distinguished expert in his field. Dr. Flemming said that if his amendments were added to H. R. 8925, that bill would be a major step in the right direction. I want to concur heartily in that statement on behalf of the United States Chamber of Commerce.

Mr. MILLER. I feel H. R. 8925 will be that type of step if Dr. Flemming's amendments are included, but I also believe it will be an advancement as it is now written, even without those amendments.

Some of us who have been privileged for some years to know Dr. Flemming and have worked with him perhaps could anticipate what he was going to say today.

MR. WHITTLESEY. That is right.

MR. MILLER. Frankly, I think those who were here the other day could have pretty well told what he was going to say. We know his views fairly well from our association with him over the years, and I know we are here this morning because of the very high regard which we have for him.

MR. WHITTLESEY. I would like to add that I do want to commend the committee for the excellent and thorough consideration it has given this whole matter. I think it is doing a splendid job.

THE CHAIRMAN. We thank all of you gentlemen very much.
The hearing is adjourned.

APPENDIX

REPORTS OF THE CIVIL SERVICE COMMISSION AND BUREAU OF THE BUDGET WITH
RESPECT TO H. R. 8925

JUNE 27, 1950.

HON. TOM MURRAY,
*Chairman, Committee of Post Office and Civil Service,
House of Representatives, Washington 25, D. C.*

DEAR MR. MURRAY: In accordance with your request of June 22, the Commission submits the following report on H. R. 8925, a bill relating to recruitment, examination, and certification procedures for the competitive civil service.

This bill in our opinion represents a merging of the best features of the recruitment and examination recommendations of the Commission on Organization of the Executive Branch with present civil-service procedures. The rating of competitors by categories, as recommended by that Commission, is provided for, but only for such positions as are determined by the Civil Service Commission. For other positions the bill retains the present method of numerical rating, with selection according to the "rule of three." In addition, the bill authorizes a new method of selection according to the "rule of five," within the discretion of the Commission.

This discretion in the types of examination rating and selection methods would allow the Commission ample flexibility for prescribing the one most appropriate according to the type of position to be filled. The present "rule of three" has not proved entirely satisfactory for certain scientific, professional, and administrative positions in the higher grades. Such positions require qualities of experience and personality that are not entirely subject to precise measurement. Therefore, the appointing officer needs a greater choice of candidates than he does for routine positions where precise and valid tests can be used.

If this bill is enacted, the Commission would proceed with due caution in prescribing the category method of rating, by limiting its use originally to a relatively few specialized positions where its use seems most appropriate. Actual experience in its use would serve as a guide in considering extending the system to additional positions.

The bill makes no changes in present law affecting the rights of veterans in rating in examinations or ranking on registers when numerical rating is used. Section 7 of the present Veterans' Preference Act is rewritten as new section 7 (a), in the interest of clarity, but no changes in substance are made. Section 7 (b) is added to apply the principles of veteran preference to the category method of rating, following a pattern which is similar to that used for numerical rating.

H. R. 8925 establishes a clearly defined relationship between the Commission and the departments by means of "employment plans" which will specify those positions for which the departments will recruit, examine, and certify personnel and the methods to be used. The Commission would continue to recruit, examine, and certify persons for all competitive positions not covered by employment plans, and would also retain control over departmental operations under employment plans. The bill emphasizes the Commission's basic responsibility for maintaining and protecting a system of open competition and selection on merit throughout the competitive civil service. It contains the following safeguards for protection of the merit system:

(1) The Commission would approve departmental employment plans under its standards, which it could change at any time. Operation of the plans would be subject to the Commission's supervision and direction. The Commission could modify any action taken by a department under such a plan.

(2) In addition to the supervision and direction mentioned above, the Commission would review the operation of employment plans at least annually, and would report its findings to the department head.

(3) The Commission could withdraw its approval of an employment plan if it did not meet standards.

(4) When requested, the Commission would review examination ratings assigned competitors under employment plans.

(5) The Commission from time to time would make such investigations respecting operation of the proposed act as it deemed necessary.

The Commission endorses the provisions of section 11, regarding the establishment of uniform standards and procedures for the personnel operations of the departments. This conforms to a recommendation of the Commission on Organization.

The Commission also endorses section 12, which provides a system for facilitating transfers of specialized personnel on request of agencies as an aid to more effective governmental operation. This is in accordance with a recommendation of the Commission on Organization.

In conclusion, we believe that H. R. 8925 gives promise of improvement in Federal personnel administration by permitting a greater degree of flexibility in recruitment and examination procedures, under appropriate safeguards for protection of the merit system.

This report has been approved by the Bureau of the Budget as being in accord with the program of the President.

By direction of the Commission:

Sincerely yours,

HARRY B. MITCHELL, *Chairman.*

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., June 27, 1950.

HON. TOM MURRAY,
*Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington, D. C.*

MY DEAR MR. MURRAY: This will acknowledge receipt of your letter of June 22, 1950, inviting the Bureau of the Budget to comment on H. R. 8925, a bill to provide a recruitment procedure for the competitive civil service in order to insure selection of personnel on the basis of open competition and merit, and for other purposes.

The purpose of this bill is, in general, to provide, for the agencies now governed by the Civil Service Act of 1883, a recruitment, examination, certification, and selection procedure suited to the size, complexity, and operating tempo of today's Government. The Commission on Organization of the Executive Branch of the Government, in its report on personnel management (Hoover report), made important recommendations concerning the improvement of the civil-service recruitment process. H. R. 8925 provides a practical method for modernizing the recruitment process and for carrying those recommendations into effect.

At the same time that the bill authorizes greater participation in the recruitment process by the agencies, it throws new and effective safeguards around that process by requiring the Civil Service Commission (1) to set standards for the entire recruitment process, (2) to supervise and direct the operation of that process, (3) to inspect operations under the proposed law and if need be, to compel the agencies to conform to the law, and to the civil-service rules and regulations, (4) to review any recruitment action at the request of any competitor for selection to a position in the competitive civil service, (5) to move into any recruitment operation, and take over recruitment, examination, and certification, and to require the agencies to change any previously taken action, if need be. The bill thus authorizes the use of the most effective recruitment methods, substantially as recommended by the Hoover Commission, yet gives practical and effective assurance that such recruitment methods will result in open competition and selection on merit.

The procedure provided in this bill builds on the fundamental principle recommended by the Hoover report on personnel management:

"Primary responsibility for recruiting and examining Federal employees should be placed on the departments and agencies.

"This should be done with the understanding that recruiting and examining programs must be approved by the Civil Service Commission before they are put into effect, and with the further understanding that the actual conduct of the programs will be subject to inspection by the Commission in order to determine that there has been adherence to the Civil Service Act and the Veterans' Preference Act."

The procedure set up in H. R. 8925 (secs. 3, 4, 5, 6, and 10) provides that the departments shall submit "employment plans" for Civil Service Commission approval, under civil-service rules, regulations, and standards pertaining to such plans. When approved, departmental operations under the plans are subject to at least an annual inspection by the Commission. The Commission may withhold, withdraw, or suspend its approval of any plans, when such plans, or operations thereunder, do not meet the Commission's standards and regulations. In such cases the Commission may take over the recruitment operation itself, or make other suitable arrangements. The Commission is authorized to recruit, examine and certify persons for selection in any department and to modify or change any action previously taken by a department. This authorization, for recruiting and examining, parallels a similar authorization, for position classification, which was included in the Classification Act of 1949, and it is desirable.

We believe, however, that the provision now included in the bill as section 3 (c) should be transferred to become section 6 (c). This would place this subsection in the same section with related parts of the bill concerning investigation and control by the Civil Service Commission. We also believe that before the Commission takes any action authorized by this subsection it should be required to find that a department is not operating in accordance with an approved employment plan and with the civil-service laws, rules, and regulations. We believe this section should read:

"SEC. 6. (c) Whenever the Civil Service Commission shall find that the departments are not operating in accordance with an approved employment plan and the civil-service laws, rules, and regulations, the Commission shall have authority (1) to recruit, examine, and certify persons for selection and appointment to competitive civil-service positions which are subject to an approved employment plan, and (2) to modify or change any action taken or procedure followed by a department under an approved employment plan. The Commission shall certify to such department any such action taken by the Commission under this subsection. The department shall take action in accordance with such certificate and such certificate shall be binding on the department."

One further amendment which we believe would give greater emphasis and clarity would be the addition of the phrase "Government-wide" before "system of recruitment," etc., in line 8 on page 2. This emphasizes that the system of recruitment here authorized is intended to be operative not merely in the Civil Service Commission but in all Government departments.

H. R. 8925 would take further steps toward providing the most effective recruitment procedure for the Government. It would allow the Commission (sec. 7), with due regard to the principles of open competition, to take suitable steps to hold the number of competitors for positions to manageable numbers reasonably required to meet economically and effectively the needs of the Government for capable, qualified employees. Competition for civil-service positions must be open. At the same time, spending large sums to process great volumes of applications and examinations in order to make relatively few appointments is neither economical nor beneficial to Government management. The cost per appointment is thus raised and the quality of appointment does not seem to be correspondingly raised by an increase in the number of applicants. During the passage of time involved in processing excessive numbers of applications, qualified applicants often take other jobs. Meanwhile, vacant jobs mean Government work delays. Entirely equitable methods can be utilized to keep expense down and will have the added advantage of avoiding raising false hopes in competitors, which can only lead to disappointment and misunderstanding. Although not specifically recommended by the Hoover report, this provision is based on the long experience of the Civil Service Commission.

Another step proposed in H. R. 8925 (sec. 9) and based on the Hoover report on personnel management pertains to the use of a category type of rating instead of a numerical type of rating. The category rating would be similar to the familiar American school ratings of A, B, C, and D, and would be used for those positions where fine rating distinctions among competitors, such as 81.4 and 81.5 would be unrealistic.

Then H. R. 8925 (sec. 9) authorizes the Civil Service Commission, as recommended by the Hoover report on personnel management, to permit appointing officers to make selections from among the highest three available names on registers of eligibles for appointments to certain types of positions, from among the highest five in other types, and from categories when that type of rating has been authorized. The Hoover report pointed out, in discussing the use of the category rating, that "Selections would still be made on the basis of merit but a

much better job could be done in fitting people into those jobs for which they are best qualified."

Next, H. R. 8925 (sec. 9) would make the necessary adjustments in language in the Veterans' Preference Act of 1944 to assure that the veteran is afforded the same preference under the new recruitment procedures as under the existing procedure.

Personnel records, forms, practices, and procedures and operations are made subject to Civil Service Commission regulation in section 11 of H. R. 8925. This section pertains to the recommendation of the Hoover report that the Civil Service Commission be required to develop standards for the operation of agency personnel offices. Under existing law the Commission has no discretion as to how such matters shall be administered. Administrative discretion is essential if every advantage is to be taken of modern management methods. Section 11 wisely prescribes no fixed method of records and procedures, but places squarely on the Civil Service Commission the responsibility for so doing, subject to review by the Bureau of the Budget under the Federal Reports Act of 1942. Individual departments, attempting in the past to achieve some measure of uniformity and rationalization in their personnel records and procedures, have simplified their operations and reduced their expenditures by many thousands of dollars. Until detailed investigations can be undertaken by the Civil Service Commission under this proposed feature of H. R. 8925, no firm estimates of savings can be made, but it is plain they can be substantial.

H. R. 8925 (sec. 12) authorizes the Civil Service Commission to help an agency to locate qualified civil-service officers and employees in other agencies for positions requiring special competence, when so requested. This follows through on one of the most important points emphasized in the recommendations of the Hoover report; namely, the recommendation pertaining to the development of career civil-service people through experience and training before they are given higher executive and professional assignments. The purpose of career development is to have experienced, mature people available when they are needed and experience in more than one agency is often becoming an essential.

If enacted, H. R. 8925 would provide an important basis for implementing that portion of the Hoover report on personnel management pertaining to recruitment and placement and related matters. The Bureau of the Budget recommends the provisions of H. R. 8925 to the favorable consideration of your committee, if modified as suggested.

Sincerely yours,

F. J. LAWTON, *Director.*

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81ST CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } No. 2698

PROVIDING A RECRUITMENT PROCEDURE FOR THE COMPETITIVE CIVIL SERVICE IN ORDER TO INSURE SELECTION OF PERSONNEL ON THE BASIS OF OPEN COMPETITION AND MERIT

JULY 20, 1950.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MILLER of California, from the Committee on Post Office and Civil Service, submitted the following

R E P O R T

[To accompany H. R. 8925]

The Committee on Post Office and Civil Service, to whom was referred the bill (H. R. 8925) to provide a recruitment procedure for the competitive civil service in order to insure selection of personnel on the basis of open competition and merit, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

- (1) Page 2, line 6, strike out "(b)." and insert in lieu thereof "(c).".
- (2) Page 2, line 8, strike out "Commission" and insert in lieu thereof "Commission, with the assistance of each department,".
- (3) Page 2, after line 11, insert the following:

"(b) Notwithstanding subsection (a), the Commission is authorized, at the direction of the President and during a national emergency declared by proclamation of the President or by concurrent resolution of the Congress, to modify or set aside the principle of open competition to the extent and for such time as it deems necessary in order to expedite and facilitate the recruitment of the best qualified and available personnel.

- (4) Page 2, line 12, strike out "(b)" and insert in lieu thereof "(c)".
- (5) Page 2, line 25, strike out "as the Commission deems necessary" and insert in lieu thereof the following: "as may be necessary for the Commission to discharge its duty and responsibility under this Act".
- (6) Page 3, strike out lines 1 to 12, both inclusive.
- (7) Page 4, line 23, strike out beginning with the word "or" down to the period in line 25.
- (8) Page 4, after line 25, insert the following:

(e) Whenever the Commission finds that the operations of a department under an approved employment plan are not in compliance with such plan or with the

2 RECRUITMENT PROCEDURE FOR COMPETITIVE CIVIL SERVICE

civil-service rules and regulations, the Commission shall have authority (1) to recruit, examine, and certify persons for selection and appointment to competitive civil-service positions in such department which are subject to such plan, and (2) to modify or change any action taken or procedure followed by such department under such plan. The Commission shall certify to such department any such action taken by the Commission under this subsection. The department shall take action in accordance with such certificate and such certificate shall be binding on the department.

(9) Page 5, line 13, strike out beginning with the word "or" down to the period in line 17 and insert in lieu thereof the following:

or (2) by placing them in categories of outstanding, well-qualified, qualified, and unqualified. Except under unusual circumstances, category ratings shall be used in the case of competitors for professional, administrative, and scientific positions of a high level. Category ratings shall not be used in the case of competitors for positions in the field service of the Post Office Department.

(10) Page 6, line 3, strike out "on" and insert in lieu thereof "in".

(11) Page 7, line 11, strike out "entitled to ten points preference" and insert in lieu thereof "included under section 2 (1), (2), (3), (5), and (6)".

(12) Page 9, line 18, strike out "examinations" and insert in lieu thereof "examinations,".

(13) Page 11, after line 2, insert the following:

SEC. 14. The selection of persons under this Act, and the promotion of officers and employees to higher positions, shall be made on the basis of merit and efficiency.

(14) Page 11, after amendment (12), insert the following:

SEC. 15. The provisions of Reorganization Plan Numbered 5 of 1949 shall apply with respect to the performance of functions of the Commission under this Act.

(15) Page 11, line 3, strike out "14" and insert in lieu thereof "16".

(16) Page 11, line 6, strike out "15" and insert in lieu thereof "17".

(17) Page 11, line 8, strike out "16" and insert in lieu thereof "18".

PURPOSE OF AMENDMENTS

The purpose of the amendments is as follows:

Amendment (1) is merely a perfecting amendment changing the reference to a subsection so that it refers to the appropriate subsection.

Amendment (2) places a responsibility upon each department of the Government to assist the Civil Service Commission in maintaining and protecting the competitive civil service system, rather than placing the full responsibility on the Commission.

Amendment (3) adds a new subsection (b) to section 3 which provides for facilitating the recruitment of the best qualified and available personnel during a national emergency declared by the President or by concurrent resolution of the Congress.

Amendment (4) is a technical amendment changing subsection (b) of section 3 to subsection (c) of section 3.

Amendment (5) is a perfecting amendment changing the language of new subsection (c) of section 3 so that the Commission may exercise such supervision and direction as may be necessary for it to discharge its duty and responsibility under the legislation.

Amendment (6) strikes out subsection (c) of section 3 of the original bill, and this language, with slight modifications, is placed in section 6 as a new subsection (c).

Amendment (7) is a perfecting amendment to subsection (b) of section 6 which is required in order to make the language of the bill consistent in view of amendment (8).

Amendment (8) adds a new subsection (c) to section 6, the substance of which was contained in subsection (c) of section 3 of the original bill, and provides that the Civil Service Commission may exercise certain authority and responsibility with respect to recruiting, examining, and certifying persons for competitive civil service positions in the event a department does not conduct its operations in compliance with an employment plan or with civil service rules and regulations.

Amendment (9) changes the language of section 8 with respect to category ratings by specifically providing for outstanding, well-qualified, qualified, and unqualified ratings in each category rating and by stating that category ratings shall be used in the case of competitors for high-level professional, administrative, and scientific positions.

Amendment (10) is solely a perfecting amendment which changes the preposition "on" to "in".

Amendment (11) is a perfecting amendment which does not change the intent but substitutes language more descriptive of veterans entitled to 10 points preference when used in connection with category ratings.

Amendment (12) is a perfecting amendment made necessary by reason of the omission of a comma.

Amendment (13) adds a new section to the bill enunciating the policy that the selection of persons under the legislation and the promotion of employees to higher positions shall be made on the basis of merit and efficiency.

Amendment (14) adds a new section to the bill made necessary by reason of a decision of the Attorney General which stated that reorganization plans affecting the departments and agencies are not prospective. The new section provides that the reorganization plan effective August 20, 1949, relating to the Civil Service Commission, should apply with respect to the performance of functions of the Commission under the legislation.

Amendments (15), (16), and (17) are solely perfecting amendments which are necessary by reason of the addition of new sections to the bill.

STATEMENT

The purpose of the bill, as amended by the committee, is to provide for a more efficient, economical, and effective recruitment, examination, and certification procedure for the selection of persons for positions in the competitive Federal civil service; and, at the same time, insure that the selection of such personnel is made on the basis of open competition and merit.

The bill provides for carrying out the most important recommendations of the Commission of the Organization of the Government (hereinafter referred to as the Hoover Commission) relating to Federal personnel management.

Under the proposed legislation, which is to be known as the Federal Personnel Recruitment Act of 1950, it would be the primary responsibility of the departments and agencies of the Government to prepare employment plans in compliance with standards prepared and published by the Civil Service Commission. Upon approval by the Civil

Service Commission, such plans would outline the procedures under which persons would be recruited, examined, and certified to fill certain competitive civil service positions in the departments and agencies. The recruiting, examining, and certifying activities in connection with those competitive positions not included in employment plans would be the sole responsibility of the Civil Service Commission.

The Hoover Commission recommended that primary responsibility for recruiting and examining Federal employees should be placed in the departments and agencies. This legislation establishes a decentralized system for the recruitment, examination, certification, and selection of Federal employees in accordance with this recommendation.

The legislation authorizes the grading of civil-service examinations by numerical ratings, as is the practice under present law; or by category ratings of outstanding, well qualified, qualified, and unqualified; except that category ratings are not to be used in the case of competitors for positions in the field service of the Post Office Department. The selection of persons from registers established on a category rating basis shall be governed by the provisions of the Veterans' Preference Act of 1944, as amended and supplemented, in the same manner and to the same extent as the selection of persons from civil-service registers under present law.

Under the bill, the Civil Service Commission or the departments and agencies under employment plans determine whether category ratings shall be used on any type of examination. However, the bill states that in connection with high-level professional, administrative, and scientific positions, category ratings shall be used except under unusual circumstances. In general the committee believes that the use of category ratings should be restricted to high-level positions.

The bill continues the present system of numerical ratings which would be used to rate examinations for most competitive civil-service positions. Except in the case of the field service of the Post Office Department, the legislation enlarges the selection from the "rule of three" to a "rule of five," when greater latitude is required by the appointing officers. This carries out the recommendation of the Hoover Commission which stated that appointing officers in the departments and agencies should be given "more leeway than the present 'rule of three' in selecting Federal employees."

When civil service registers are established on the basis of category ratings, appointing officers, under the provisions of the bill, are entitled to consider at least five eligibles for each vacancy.

The bill, as amended, provides that at the direction of the President, the Civil Service Commission is authorized during a national emergency declared by proclamation or by concurrent resolution of Congress, to take action in order to expedite and facilitate the recruitment of the best qualified and available personnel.

In addition, the legislation authorizes and directs the Civil Service Commission to facilitate the transfer of Federal employees between departments and agencies as an aid to more effective governmental administration. This carries out another recommendation of the Hoover Commission.

The legislation provides that in the case of examinations for which the Civil Service Commission expects competition to be greatly in excess of the needs of the Federal service, it may take such action, consistent with the principles of good administration and open

competition, to limit the number of persons permitted to compete for positions to such number as is reasonably required to meet economically and effectively the needs of the service for qualified and capable employees.

Also, the bill provides that, subject to the Federal Reports Act of 1942, the Civil Service Commission shall provide for the maintenance and preservation of personnel records, including the records of examinations, either by the Commission or by the departments and agencies, or by both, as the Commission may determine.

The committee included a section in the bill outlining congressional policy that in the selection of persons under the act and in the promotion of employees to higher positions, such selection and promotion shall be based on merit and efficiency. This section is not designed to affect existing law with respect to within-grade or longevity step increases under the Classification Act of 1949 or so-called automatic, meritorious, or longevity increases under the salary laws applicable to employees in the field service of the Post Office Department.

The committee believes the general policy of the legislation implements the first recommendation of the Hoover Commission with respect to Federal personnel management which stated:

The Civil Service Commission should place primary emphasis on staff functions rather than upon processing a multitude of personnel transactions.

Another recommendation of the Hoover Commission which is adopted in the legislation requires the Civil Service Commission to develop standards for personnel operations in the executive departments and agencies.

Existing law with respect to veterans' preference is retained without change in the legislation. However, by reason of the adoption of a new type of rating known as the category rating, the bill provides, in accordance with Hoover Commission recommendations, that applicants for civil-service positions which are filled on a category rating basis will be grouped so that within each quality category veterans will be considered ahead of nonveterans. As is provided in the Veterans' Preference Act, disabled veterans entitled to 10-point preference will go to the top of the highest (outstanding) category.

The legislation covers all Government departments and agencies in which there are competitive positions subject to the Civil Service Act of 1883, as amended and supplemented.

Through periodic inspections, at least on an annual basis, the Civil Service Commission is authorized, under the provisions of the bill, to determine whether the departments and agencies are complying with the employment plans. The Commission is authorized to revise, supplement, or abolish existing standards, or when necessary withhold, withdraw, or suspend its approval of any employment plan or part thereof, whenever such plan does not meet the standards prepared by the Commission.

Also, the bill as amended provides that the Civil Service Commission may exercise authority and assume primary responsibility over recruiting, examining, and certifying persons for competitive civil service positions in the event a department does not conduct its operations in compliance with an employment plan or with civil service rules and regulations. Under this alternative arrangement the employment plan would remain in effect, but noncompliance with such

plan or with civil service rules and regulations would be remedied under a certificate issued by the Commission to the department or agency affected. Action in compliance with such certificate would be mandatory on such department or agency.

Any competitor for selection to a competitive civil service position, shall, upon written request to the Civil Service Commission, be entitled as a matter of right to a review by the Commission of any action taken by the departments and agencies in connection with their operation of employment plans.

The President is authorized to issue such civil-service rules and the Civil Service Commission is authorized to issue such regulations as are necessary for the administration of the bill. Also, the Commission is responsible for conducting investigations regarding all operations under the legislation, and the commission shall take such corrective action as appears necessary.

Finally, the bill provides that the provisions of Reorganization Plan No. 5 of 1949, which relates to the Civil Service Commission, shall apply with respect to the performance of functions of the Commission under this legislation.

As stated by the Hoover Commission, the committee believes this legislation will result in substantial savings for the Federal Government. The committee is certain the legislation will improve and make more efficient the recruitment, examination, certification, and selection of persons for the more than 1,700,000 competitive civil-service positions in the Federal Government.

Extensive hearings were conducted by the House Post Office and Civil Service Committee with respect to this subject at which time representatives of the Civil Service Commission, Bureau of the Budget, Hoover Commission, Citizens Committee for the Hoover Report, United States Chamber of Commerce, and others appeared and endorsed the legislation.

Former Civil Service Commissioner Arthur S. Flemming, who was a member of the Hoover Commission, offered certain proposed amendments to the legislation, most of which were adopted by the committee and have been included in the bill. At the conclusion of Mr. Flemming's testimony representatives of the United States Chamber of Commerce stated that the bill would be a "major step in the right direction," and representatives of the Citizens Committee for the Hoover Report stated the legislation was a "tremendous step forward."

It is the view of the committee that enactment of the bill will substantially improve the operations of the Federal civil service. (A detailed section-by-section analysis of the legislation appears in appendix A.)

In connection with this legislation, the committee deems it advisable to outline legislative and administrative action which has been taken with respect to carrying out the recommendations of the Hoover Commission regarding Federal personnel management.

Reorganization Plan No. 5 of 1949, which became effective August 20, 1949, carried out the recommendations of the Hoover Commission with respect to the reorganization of the Civil Service Commission. This reorganization which received the approval of Congress, among other things, provided for a more effective operation of the Commission by vesting responsibility for the administrative direction of the Commission's work in the Chairman.

Title X of the Classification Act of 1949, approved October 28, 1949, carries out the recommendation of the Hoover Commission which proposed the rewarding of Government administrators and supervisors for actions which reduce the number of persons on the Federal payroll.

The Classification Act of 1949 also raised the salary ceiling of \$10,330 per annum for Federal career employees to \$14,000 per annum, which is in accordance with another recommendation of the Hoover Commission.

Public Law 359, Eighty-first Congress, increased the salaries of the heads and assistants heads of the executive departments and agencies of the Government in accordance with another recommendation of the Hoover Commission.

H. R. 7824, which was approved by the House Post Office and Civil Service Committee on May 29, 1950, and passed the House on June 19, 1950, carries out the recommendations of the Hoover Commission stating that the efficiency-rating system should be simplified and should be used to promote a better understanding between supervisors and employees.

H. R. 2446, which revises the reduction-in-force procedures in the Federal service, is presently under consideration by a subcommittee of the committee. This legislation is designed to carry out another recommendation of the Hoover Commission.

On April 13, 1950, the Civil Service Commission, at the direction of the President, initiated a Federal employee promotion program to carry out the recommendation of the Hoover Commission which stated that the departments and agencies should be required, under the direction of the Civil Service Commission, to work out specific programs for promoting career employees.

As has been stated above, the committee believes that the remaining important recommendations of the Hoover Commission relating to the Federal civil service which require congressional action are embodied in this bill (H. R. 8925).

The reports of the Civil Service Commission dated June 27, 1950, and July 7, 1950, and the Bureau of the Budget dated June 27, 1950, are as follows:

UNITED STATES CIVIL SERVICE COMMISSION,
Washington 25, D. C., June 27, 1950.

HON. TOM MURRAY,
*Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington 25, D. C.*

DEAR MR. MURRAY: In accordance with your request of June 22, the Commission submits the following report on H. R. 8925, a bill relating to recruitment, examination, and certification procedures for the competitive civil service.

This bill in our opinion represents a merging of the best features of the recruitment and examination recommendations of the Commission on Organization of the Executive Branch with present civil service procedures. The rating of competitors by categories, as recommended by that Commission, is provided for, but only for such positions as are determined by the Civil Service Commission. For other positions the bill retains the present method of numerical rating, with selection according to the "rule of three." In addition, the bill authorizes a new method of selection according to the "rule of five," within the discretion of the Commission.

This discretion in the types of examination rating and selection methods would allow the Commission ample flexibility for prescribing the one most appropriate according to the type of position to be filled. The present rule of three has not proved entirely satisfactory for certain scientific, professional, and administrative positions in the higher grades. Such positions require qualities of experience and

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personality that are not entirely subject to precise measurement. Therefore, the appointing officer needs a greater choice of candidates than he does for routine positions where precise and valid tests can be used.

If this bill is enacted, the Commission would proceed with due caution in prescribing the category method of rating by limiting its use originally to a relatively few specialized positions where its use seems most appropriate. Actual experience in its use would serve as a guide in considering extending the system to additional positions.

The bill makes no changes in present law affecting the rights of veterans in rating in examinations or ranking on registers when numerical rating is used. Section 7 of the present Veterans' Preference Act is rewritten as new section 7 (a), in the interest of clarity, but no changes in substance are made. Section 7 (b) is added to apply the principles of veteran preference to the category method of rating, following a pattern which is similar to that used for numerical rating.

H. R. 8925 establishes a clearly defined relationship between the Commission and the departments by means of "employment plans" which will specify those positions for which the departments will recruit, examine, and certify personnel and the methods to be used. The Commission would continue to recruit, examine, and certify persons for all competitive positions not covered by employment plans, and would also retain control over departmental operations under employment plans. The bill emphasizes the Commission's basic responsibility for maintaining and protecting a system of open competition and selection on merit throughout the competitive civil service. It contains the following safeguards for protection of the merit system:

(1) The Commission would approve departmental employment plans under its standards, which it could change at any time. Operation of the plans would be subject to the Commission's supervision and direction. The Commission could modify any action taken by a department under such a plan.

(2) In addition to the supervision and direction mentioned above, the Commission would review the operation of employment plans at least annually, and would report its findings to the department head.

(3) The Commission could withdraw its approval of an employment plan if it did not meet standards.

(4) When requested, the Commission would review examination ratings assigned competitors under employment plans.

(5) The Commission from time to time would make such investigations respecting operation of the proposed act as it deemed necessary.

The Commission endorses the provisions of section 11, regarding the establishment of uniform standards and procedures for the personnel operations of the departments. This conforms to a recommendation of the Commission on Organization.

The Commission also endorses section 12, which provides a system for facilitating transfers of specialized personnel on request of agencies as an aid to more effective governmental operation. This is in accordance with a recommendation of the Commission on Organization.

In conclusion, we believe that H. R. 8925 gives promise of improvement in Federal personnel administration by permitting a greater degree of flexibility in recruitment and examination procedures, under appropriate safeguards for protection of the merit system.

This report has been approved by the Bureau of the Budget as being in accord with the program of the President.

By direction of the Commission.

Sincerely yours,

HARRY B. MITCHELL, *Chairman.*

UNITED STATES CIVIL SERVICE COMMISSION,
Washington 25, D. C., July 7, 1950.

HON. TOM MURRAY,
*Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington, D. C.*

DEAR MR. MURRAY: In an earlier letter the Commission endorsed H. R. 8925 as written. In the hearings on H. R. 8925 held subsequently a number of amendments were suggested by Dr. Arthur S. Flemming, a member of the Hoover Commission, before your committee on Saturday, July 1, 1950.

To a majority of the amendments suggested the Commission has no objection. However, we wish to call your attention to three of the suggested amendments.

Dr. Flemming suggested that H. R. 8925 be amended by inserting the words "and the departments" after the word "Commission" in line 8, page 2. Dr. Flemming indicated that it was desirable to place on the departments a responsibility for maintaining the competitive merit system. With his expressed purpose we are in complete accord. However, we believe that the actual words used may be interpreted as giving the departments coequal authority with the Commission in the administration of the merit system. This amendment is not desirable since responsibility wide spread leaves no one agency finally responsible. We believe it necessary to make it clear in the bill that the Commission continues to have the primary responsibility for the administration of the merit system. We, therefore, recommend the insertion after the word "Commission" in line 8, page 2, the words "with the assistance of each department."

Dr. Flemming also suggested that H. R. 8925 be amended by striking out the words "as the Commission deems necessary" in line 25, page 2, and inserting in lieu thereof the words "as may be necessary in order to discharge the responsibilities assigned to the Commission under this act." We respectfully call to your attention that the Commission has major responsibilities placed on it by law in other acts, specifically the Civil Service Act and the Veterans' Preference Act of 1944, as amended. We, therefore, believe that it would be highly desirable to strike out the words "under this act" from Dr. Flemming's suggested amendment and insert in lieu thereof the words "by law." The last sentence of section 3 (b) would then read "all operations of a department under any employment plan shall be subject to such supervision and direction by the Commission as may be necessary in order to discharge the responsibilities assigned to the Commission by law."

The third amendment suggested by Dr. Flemming to which the Commission here refers is one he suggested for inclusion at the end of line 21, page 3 as follows: "Provided, That, in making such determinations the Commission, except under unusual circumstances, shall provide for inclusion in employment plans of all high level scientific, professional and administrative positions and all positions peculiar to the agency."

This would nullify to a large extent the discretion granted the Commission earlier in section 4 (a) (1) to determine "with due regard to the effectiveness of the operations of the departments and to the best interests of the Government those competitive civil service positions which shall be subject to recruitment, examination, and certification by the Commission and those positions which shall be subject to employment plans." The Commission is strongly of the opinion that in order to achieve the stated purpose of section 4 (a) (1) it must continue to have the discretion originally proposed under section 4 (a) (1). Otherwise, it is felt that it would be required to consent to confusing, overlapping, and uneconomical recruitment programs. Obviously where a position regardless of its level and minor peculiarities is common to many agencies it would be confusing and uneconomical to recruit for it by separate examinations in each agency. We, therefore, recommend that this amendment not be accepted.

In view of the need of making immediate comment on the proposed amendments the Commission has not determined from the Bureau of the Budget the relationship of this report to the program of the President.

By direction of the Commission.

Sincerely yours,

HARRY B. MITCHELL, *Chairman.*

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington 25, D. C., June 27, 1950.

MY DEAR MR. MURRAY: This will acknowledge receipt of your letter of June 22, 1950, inviting the Bureau of the Budget to comment on H. R. 8925, a bill to provide a recruitment procedure for the competitive civil service in order to insure selection of personnel on the basis of open competition and merit, and for other purposes.

The purpose of this bill is, in general, to provide, for the agencies now governed by the Civil Service Act of 1883, a recruitment, examination, certification, and selection procedure suited to the size, complexity, and operating tempo of today's Government. The Commission on Organization of the Executive Branch of the Government, in its Report on Personnel Management (Hoover report) made important recommendations concerning the improvement of the civil-service recruitment process. H. R. 8925 provides a practical method for modernizing the recruitment process and for carrying those recommendations into effect.

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At the same time that the bill authorizes greater participation in the recruitment process by the agencies, it throws new and effective safeguards around that process by requiring the Civil Service Commission (1) to set standards for the entire recruitment process, (2) to supervise and direct the operation of that process, (3) to inspect operations under the proposed law and, if need be, to compel the agencies to conform to the law, and to the civil-service rules and regulations, (4) to review any recruitment action at the request of any competitor for selection to a position in the competitive civil service, (5) to move into any recruitment operation, and take over recruitment, examination, and certification, and to require the agencies to change any previously taken action, if need be. The bill thus authorizes the use of the most effective recruitment methods, substantially as recommended by the Hoover Commission, yet gives practical and effective assurance that such recruitment methods will result in open competition and selection on merit.

The procedure provided in this bill builds on the fundamental principle recommended by the Hoover Report on Personnel Management:

"Primary responsibility for recruiting and examining Federal employees should be placed on the departments and agencies.

"This should be done with the understanding that recruiting and examining programs must be approved by the Civil Service Commission before they are put into effect, and with the further understanding that the actual conduct of the programs will be subject to inspection by the Commission in order to determine that there has been adherence to the Civil Service Act and the Veterans Preference Act."

The procedure set up in H. R. 8925 (secs. 3, 4, 5, 6, and 10) provides that the departments shall submit "employment plans" for Civil Service Commission approval, under civil-service rules, regulations, and standards pertaining to such plans. When approved, departmental operations under the plans are subject to at least an annual inspection by the Commission. The Commission may withhold, withdraw, or suspend its approval of any plans, when such plans, or operations thereunder, do not meet the Commission's standards and regulations. In such cases the Commission may take over the recruitment operation itself, or make other suitable arrangements. The Commission is authorized to recruit, examine, and certify persons for selection in any department and to modify or change any action previously taken by a department. This authorization, for recruiting and examining, parallels a similar authorization, for position classification, which was included in the Classification Act of 1949, and it is desirable.

We believe, however, that the provision now included in the bill as section 3 (c) should be transferred to become section 6 (c). This would place this subsection in the same section with related parts of the bill concerning investigation and control by the Civil Service Commission. We also believe that before the Commission takes any action authorized by this subsection, it should be required to find that a department is not operating in accordance with an approved employment plan and with the civil service laws, rules, and regulations. We believe this section should read:

"SEC. 6. (c) Whenever the Civil Service Commission shall find that the departments are not operating in accordance with an approved employment plan and the civil-service laws, rules, and regulations, the Commission shall have authority (1) to recruit, examine, and certify persons for selection and appointment to competitive civil-service positions which are subject to an approved employment plan, and (2) to modify or change any action taken or procedure followed by a department under an approved employment plan. The Commission shall certify to such department any such action taken by the Commission under this subsection. The department shall take action in accordance with such certificate and such certificate shall be binding on the department."

One further amendment which we believe would give greater emphasis and clarity would be the addition of the phrase "Government-wide" before "system of recruitment," etc., in line 8 on page 2. This emphasizes that the system of recruitment here authorized is intended to be operative not merely in the Civil Service Commission but in all Government departments.

H. R. 8925 would take further steps toward providing the most effective recruitment procedure for the Government. It would allow the Commission (sec. 7), with due regard to the principles of open competition, to take suitable steps to hold the number of competitors for positions to manageable numbers reasonably required to meet economically and effectively the needs of the Government for capable, qualified employees. Competition for civil service positions must be open. At the same time, spending large sums to process great volumes of applica-

tions and examinations in order to make relatively few appointments is neither economical nor beneficial to Government management. The cost per appointment is thus raised and the quality of appointment does not seem to be correspondingly raised by an increase in the number of applicants. During the passage of time involved in processing excessive numbers of applications, qualified applicants often take other jobs. Meanwhile, vacant jobs mean Government work delays. Entirely equitable methods can be utilized to keep expense down and will have the added advantage of avoiding raising false hopes in competitors, which can only lead to disappointment and misunderstanding. Although not specifically recommended by the Hoover report, this provision is based on the long experience of the Civil Service Commission.

Another step proposed in H. R. 8925 (sec. 9) and based on the Hoover Report on Personnel Management pertains to the use of a category type of rating instead of a numerical type of rating. The category rating would be similar to the familiar American school ratings of "A", "B", "C", and "D" and would be used for those positions where fine rating distinctions among competitors, such as "81.4" and "81.5", would be unrealistic.

Then H. R. 8925 (sec. 9) authorizes the Civil Service Commission, as recommended by the Hoover Report on Personnel Management, to permit appointing officers to make selections from among the highest three available names on registers of eligibles for appointments to certain types of positions, from among the highest five in other types, and from categories when that type of rating has been authorized. The Hoover report pointed out, in discussing the use of the category rating, that "Selections would still be made on the basis of merit but a much better job could be done in fitting people into those jobs for which they are best qualified."

Next, H. R. 8925 (sec. 9) would make the necessary adjustments in language in the Veterans' Preference Act of 1944 to assure that the veteran is afforded the same preference under the new recruitment procedures as under the existing procedure.

Personnel records, forms, practices, and procedures and operations are made subject to Civil Service Commission regulation in section 11 of H. R. 8925. This section pertains to the recommendation of the Hoover report that the Civil Service Commission be required to develop standards for the operation of agency personnel offices. Under existing law the Commission has no discretion as to how such matters shall be administered. Administrative discretion is essential if every advantage is to be taken of modern management methods. Section 11 wisely prescribes no fixed method of records and procedures, but places squarely on the Civil Service Commission the responsibility for so doing, subject to review by the Bureau of the Budget under the Federal Reports Act of 1942. Individual departments, attempting in the past to achieve some measure of uniformity and rationalization in their personnel records and procedures, have simplified their operations and reduced their expenditures by many thousands of dollars. Until detailed investigations can be undertaken by the Civil Service Commission under this proposed feature of H. R. 8925, no firm estimates of savings can be made, but it is plain they can be substantial.

H. R. 8925 (sec. 12) authorizes the Civil Service Commission to help an agency to locate qualified civil service officers and employees in other agencies for positions requiring special competence, when so requested. This follows through on one of the most important points emphasized in the recommendations of the Hoover report; namely, the recommendation pertaining to the development of career civil service people through experience and training before they are given higher executive and professional assignments. The purpose of career development is to have experienced, mature people available when they are needed and experience in more than one agency is often becoming an essential.

If enacted, H. R. 8925 would provide an important basis for implementing that portion of the Hoover Report on Personnel Management pertaining to recruitment and placement and related matters. The Bureau of the Budget recommends the provisions of H. R. 8925 to the favorable consideration of your committee, if modified as suggested.

Sincerely yours,

F. J. LAWTON, *Director.*

HON. TOM MURRAY,
*Chairman, Committee on Post Office and Civil Service;
House of Representatives, Washington 25, D. C.*

CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

VETERANS' PREFERENCE ACT OF 1944

[SEC. 3. In all examinations to determine the qualifications of applicants for entrance into the service ten points shall be added to the earned ratings of those persons included under section 2 (1), (2), (3), (5), and (6), and five points shall be added to the earned ratings of those persons included under section 2 (4) of this Act:]

SEC. 3. In those examinations to determine the qualifications of applicants for entrance into the service in which applicants are rated numerically, ten points shall be added to the earned ratings of those persons included under section 2 (1), (2), (3), (5), and (6), and five points shall be added to the earned ratings of those persons included under section 2 (4) of this Act, and on those examinations in which applicants are rated by categories such persons shall receive the preference provided by section 7 (b) of this Act:

[SEC. 7. The names of preference eligibles shall be entered on the appropriate registers or lists of eligibles in accordance with their respective augmented ratings, and the name of a preference eligible shall be entered ahead of all others having the same rating: *Provided*, That, except for positions in the professional and scientific services for which the entrance salary is over \$3,000 per annum, the names of all qualified preference eligibles, entitled to ten points in addition to their earned ratings shall be placed at the top of the appropriate civil-service register or employment list, in accordance with their respective augmented ratings.]

SEC. 7. (a) For professional and scientific positions for which the entrance salary is over \$3,000 per annum and for which eligibles are rated numerically, the names of preference eligibles shall be entered on the appropriate civil-service registers of eligibles in accordance with their respective augmented ratings and ahead of all eligibles having the same rating who are not entitled to preference. For all other positions for which eligibles are rated numerically, the names of eligibles entitled to ten points preference shall be entered at the top of the appropriate civil-service registers in accordance with their respective augmented ratings, and the names of eligibles entitled to five points preference shall be entered on such registers of eligibles in accordance with their respective augmented ratings and ahead of all eligibles having the same rating who are not entitled to preference.

(b) For professional and scientific positions for which the entrance salary is over \$3,000 per annum and for which eligibles are rated by categories, the names of preference eligibles shall be entered on the appropriate civil-service registers of eligibles in accordance with their respective category ratings and ahead of all others in the same category. For all other positions for which eligibles are rated by categories, the names of preference eligibles shall be entered on the appropriate civil-service registers of eligibles in accordance with their respective category ratings and ahead of all others in the same category, except that the names of eligibles entitled to ten points preference shall be entered at the top of the highest category.

[SEC. 8. When, in accordance with civil-service laws and rules, a nominating or appointing officer shall request certification of eligibles for appointment purposes, the Civil Service Commission shall certify, from the top of the appropriate register of eligibles, a number of names sufficient to permit the nominating or appointing officer to consider at least three names in connection with each vacancy. The nominating or appointing officer shall make selection for each vacancy from not more than the highest three names available for appointment on such certification, unless objection shall be made, and sustained by the Commission, to one or more of the persons certified, for any proper and adequate reason, as may be prescribed in the rules promulgated by the Civil Service Commission:]

SEC. 8. (a) When in accordance with civil-service laws and rules, a nominating or appointing officer requests certification of eligibles for appointment purposes, there shall be certified, from the top of the appropriate civil-service register of eligibles, such number of names as may be necessary to permit such officer to make a selection for each vacancy in the manner provided by this section.

(b) When eligibles have been rated numerically, the nominating or appointing officer shall be entitled to consider at least three eligibles for each vacancy and shall make selection from not more than the highest three eligibles available for appointment on certification: *Provided, That the Civil Service Commission may by regulation provide that with respect to certain positions, not including positions in the field service of the Post Office Department, the nominating or appointing officer shall be entitled to consider at least five eligibles for each vacancy and shall make selection from not more than the highest five eligibles available for appointment on certification.*

(c) When eligibles have been rated by categories, the nominating or appointing officer shall be entitled to consider at least five eligibles for each vacancy and shall make selection from the highest category. The Commission shall prepare standards for determining when the number of eligibles in any category or categories to be considered is insufficient or excessive. If, under such standards, there is an insufficient number of eligibles in the highest category, eligibles in the next highest category or categories shall also be considered for selection. If, under such standards, there is an excessive number of eligibles in the category or categories to be considered, the officer shall make selection from such lesser number of eligibles in such category or categories as may be determined to be sufficient under such standards. Selection of a nonpreference eligible shall not be made in any case if there are available for selection the names of at least five preference eligibles in the same or a higher category.

(d) A nominating or appointing officer shall not be required to consider an eligible for selection if objection to such eligible shall be made and sustained for any proper and adequate reason under regulations prescribed by the Civil Service Commission:

APPENDIX A

ANALYSIS OF H. R. 8925 BY SECTIONS

Section 1 provides that the legislation shall be cited as the "Federal Personnel Recruitment Act of 1950."

Section 2 defines the terms "department," "Commission," and "employment plan" as used in the bill and indicates that the coverage of the proposed bill is coextensive with the coverage of the Civil Service Act.

Section 3 (a) makes clear the Civil Service Commission's duty and responsibility to maintain and protect a system of recruitment, examination, certification, and selection for the competitive civil service which will result in open competition and selection on merit. It also makes clear that each department shall assist the Commission in this duty and responsibility.

Section 3 (b) permits the Commission, during a national emergency, to modify or set aside the principle of open competition as necessary in order to facilitate recruitment of the best qualified and available personnel.

Section 3 (c) requires departments to prepare and submit "employment plans" to the Commission for approval and upon approval to operate under such plans subject to the direction and supervision of the Commission. Two or more departments may jointly submit and operate such an employment plan.

Section 4 requires the Commission to determine what positions may be recruited for under employment plans and what positions shall be recruited for directly by the Commission, and to establish standards which may be revised from time to time for the establishment and operation of employment plans. Such standards shall be published in such form as the Commission may determine.

Section 5 requires the Civil Service Commission to recruit, or make appropriate alternative arrangements for recruitment, for positions not covered by employment plans.

Section 6 (a) requires the Commission to review the operations of agencies under employment plans at least annually.

Section 6 (b) grants authority to the Commission to withhold, withdraw, or suspend any employment plan or any part thereof whenever it finds that the plan does not meet the Commission's standards.

To retain effective control of recruitment in the Commission, section 6 (c) provides that whenever agency operations under employment plans do not conform to the plan or to civil-service rules and regulations, the Commission may recruit, examine, and certify for positions which have been included in an employment plan, and may modify any action taken by a department under such a plan.

In order that the Commission may avoid an excessive workload in recruitment, section 7 grants the Commission authority to control competition in those examinations for which it expects competition to be greatly in excess of the needs of the service. Any such measures must be taken with due regard to the principle of open competition.

Section 8 authorizes the use of two alternative rating methods, either numerically on a scale of 100, or by the categories "outstanding," "well qualified," "qualified," and "unqualified." Except under unusual circumstances, category ratings shall be used for professional, administrative, and scientific positions of a high level, but the numerical rating system is retained for positions in the field service of the Post Office Department.

Section 9 amends sections 3, 7, and 8 of the Veterans' Preference Act to conform with the use of category, as well as numerical rating methods. The procedures for ranking of eligibles on registers and selection of appointees retain substantially the relative preference of veterans now provided in the Veterans' Preference Act. Where the numerical rating method is used, the procedures in the Veterans' Preference Act for ranking eligibles on registers is followed and the Commission is granted authority to permit selection of eligibles either from among the top three eligibles or from among the top five eligibles on the appropriate register. Selections for field postal positions shall be from the top three eligibles.

Where the category rating method is used, eligibles are to be entered on the appropriate registers in accordance with their category ratings. However, in each category the names of veterans are to precede the names of nonveterans. In addition, for all registers except those for professional positions paying \$3,000 per annum or more, the names of all disabled veteran eligibles are to be placed at the top of the highest category. Under the category method of rating, an appointing officer may select any eligible in the highest category, except that he may not select a nonveteran if there are five or more veterans in the same or a higher category. The Civil Service Commission is given authority to promulgate standards enlarging or restricting the number of eligibles to be considered when the consideration of all eligibles in one category only would be insufficient or excessive.

No change is made in the present provisions of the Veterans' Preference Act relating to the filing of reasons by an appointing officer when he passes over a veteran and selects a nonveteran.

The attached charts present a comparison of the ranking of eligibles on civil-service registers under numerical rating and under category rating as required under the proposed bill. (The illustrations of ranking under numerical rating conform with the practice under present law.)

Section 10 gives applicants for competitive positions the right to a review of their examination ratings by the Civil Service Commis-

sion. This would apply to ratings made by the departments under employment plans and to ratings by the Commission.

Section 11 authorizes the Commission to provide for maintaining personnel records either by the Commission or by the departments, or by both, as the Commission may determine. It also gives the Commission authority after consultation with the departments, to establish uniform standards and practices, or otherwise regulate the personnel operations of the departments.

Under section 12 the Commission is directed to facilitate the transfer of Federal employees with special qualifications to positions requiring such qualifications, by referring names upon the request of any department. This is to be done when it will aid more effective governmental administration.

Section 13 (a) authorizes the President to issue civil-service rules and the Commission to issue regulations for the administration of the act.

Under the provisions of section 13 (b) the Commission is directed to make such investigations from time to time respecting the operation of the act as it deems necessary and to take necessary corrective action in the light of such investigations.

Section 14 requires that all selections of persons under the act and promotions of officers and employees to higher positions shall be made on the basis of merit and efficiency.

Section 15 applies the provisions of Reorganization Plan No. 5 of 1949 (reorganization of the Civil Service Commission) to this act.

Section 16 authorizes the appropriation of such sums as may be necessary to carry out the provisions of the act.

Section 17 repeals all laws or parts of laws inconsistent with the act to the extent of their inconsistency.

Section 18 provides that the act will take effect on the ninetieth day after enactment.

ARRANGEMENT OF REGISTERS OF ELIGIBLES FOR ALL POSITIONS *EXCEPT* PROFESSIONAL AND SCIENTIFIC POSITIONS WITH ENTRANCE SALARIES OF \$3,000 PER ANNUM OR ABOVE

NUMERICAL RATING

All 10-point preference eligibles with ratings from 70 to 110 (including the 10 additional points) arranged in order of ratings.

Five-point preference eligibles and nonpreference eligibles arranged in order of ratings. (Ratings include five additional points for nondisabled veterans.)

(Tied ratings are broken by placing preference eligibles ahead of nonpreference eligibles.)

CATEGORY RATING

"Outstanding" category

All 10-point preference eligibles rated "outstanding," "well qualified," or "qualified."

Five-point preference eligibles rated "outstanding."

Nonpreference eligibles rated "outstanding."

"Well-qualified" category

Five-point preference eligibles rated "well qualified."

Nonpreference eligibles rated "well qualified."

"Qualified" category

Five-point preference eligibles rated "qualified."

Nonpreference eligibles rated "qualified."

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ARRANGEMENT OF REGISTERS OF ELIGIBLES FOR SCIENTIFIC AND PROFESSIONAL POSITIONS WITH ENTRANCE SALARIES OF \$3,000 PER ANNUM OR ABOVE

NUMERICAL RATING

All eligibles, including 10-point preference eligibles, 5-point preference eligibles, and nonpreference eligibles, arranged in order of ratings. (Ratings include 10 additional points for disabled veterans and certain wives, widows, and mothers of veterans and 5 additional points for nondisabled veterans.)

(Tied ratings are broken by placing preference eligibles ahead of nonpreference eligibles.)

CATEGORY RATING

"Outstanding" category

Ten-point and five-point preference eligibles rated "outstanding."

Nonpreference eligibles rated "outstanding."

"Well-qualified" category

Ten-point and five-point preference eligibles rated "well qualified."

Nonpreference eligibles rated "well qualified."

"Qualified" category

Ten-point and five-point preference eligibles rated "qualified."

Nonpreference eligibles rated "qualified."



Division of Reports
Office of the Secretary of the Senate

Union Calendar No. 942

81ST CONGRESS
2D SESSION

H. R. 8925

[Report No. 2698]

IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 1950

Mr. MURRAY of Tennessee introduced the following bill; which was referred to the Committee on Post Office and Civil Service

JULY 20, 1950

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

A BILL

To provide a recruitment procedure for the competitive civil service in order to insure selection of personnel on the basis of open competition and merit, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Federal Personnel
4 Recruitment Act of 1950".

5 SEC. 2. For the purposes of this Act—

6 (1) The term "department" includes all departments,
7 independent establishments, agencies, and corporations in the
8 executive, legislative, and judicial branches of the Federal
9 Government and in the municipal government of the District
10 of Columbia in which there are competitive positions subject

1 to the Civil Service Act of 1883, as amended and supple-
2 mented.

3 (2) The term "Commission" means the Civil Service
4 Commission.

5 (3) The term "employment plan" means a plan pro-
6 vided for in section 3 ~~(b)~~ (c).

7 SEC. 3. (a) It shall be the duty and responsibility of
8 the ~~Commission~~ *Commission, with the assistance of each*
9 *department*, to maintain and protect a system of recruitment,
10 examination, certification, and selection of persons for com-
11 petitive civil-service positions in the departments which
12 will result in open competition and selection on merit.

13 (b) *Notwithstanding subsection (a), the Commission*
14 *is authorized, at the direction of the President and during*
15 *a national emergency declared by proclamation of the Presi-*
16 *dent or by concurrent resolution of the Congress, to modify*
17 *or set aside the principle of open competition to the extent*
18 *and for such time as it deems necessary in order to expedite*
19 *and facilitate the recruitment of the best qualified and avail-*
20 *able personnel.*

21 ~~(b)~~ (c) Each department shall submit to the Commission
22 an employment plan or plans for the recruitment, examina-
23 tion, certification, and selection of persons for competitive
24 civil-service positions in such department. Two or more
25 departments may jointly submit and operate under an em-

1 ployment plan. If the Commission approves an employment
2 plan submitted by a department, such department, or such
3 department and the Commission, in accordance with such
4 plan, shall recruit, examine, and certify, and such depart-
5 ment shall select, persons for such of its competitive civil-
6 service positions as are included in such plan. All opera-
7 tions of a department under any employment plan shall be
8 subject to such supervision and direction by the Commission
9 as the Commission deems necessary *as may be necessary for*
10 *the Commission to discharge its duty and responsibility under*
11 *this Act.*

12 ~~(c)~~ Notwithstanding subsection ~~(b)~~, the Commission
13 shall have authority, which may be exercised at any time
14 in its discretion, ~~(1)~~ to recruit, examine, and certify per-
15 sons for selection and appointment to competitive civil-
16 service positions which are subject to an approved employ-
17 ment plan, and ~~(2)~~ to modify or change any action taken
18 or procedure followed by a department under an approved
19 employment plan. The Commission shall certify to such
20 department any such action taken by the Commission under
21 this subsection. The department shall take action in accord-
22 ance with such certificate and such certificate shall be bind-
23 ing on the department.

24 SEC. 4. (a) The Commission shall, after consultation
25 with the departments principally concerned—

1 (1) determine, from time to time, with due regard
2 to the effectiveness of the operations of the departments
3 and to the best interests of the Government, those com-
4 petitive civil-service positions which shall be subject to
5 recruitment, examination, and certification by the Com-
6 mission, and those positions which shall be subject to
7 employment plans;

8 (2) prepare standards to be followed in the estab-
9 lishment and operation of employment plans;

10 (3) from time to time revise, supplement, or
11 abolish existing standards, or prepare new standards for
12 employment plans.

13 (b) Standards prepared by the Commission under sub-
14 section (a) shall be published in such form as it may
15 determine.

16 SEC. 5. The Commission shall undertake directly, or
17 make appropriate alternative arrangements for, the recruit-
18 ment, examination, and certification of persons for selection
19 and appointment to competitive civil-service positions not
20 covered by currently approved employment plans.

21 SEC. 6. (a) The Commission shall from time to time,
22 but at least annually, review the operations of the depart-
23 ments under approved employment plans in order to deter-
24 mine whether such operations are in compliance with such
25 plans and with the Civil Service Rules and Regulations.

1 The Commission shall make findings with respect to the
2 operations of the departments under their employment plans
3 and shall report such findings to the heads of the departments
4 concerned.

5 (b) The Commission shall withhold, withdraw, or sus-
6 pend its approval of any employment plan or part thereof
7 whenever it finds that such plan does not meet the standards
8 prepared by the Commission ~~or that operations under such~~
9 ~~plan are not in compliance with the plan or with the Civil~~
10 ~~Service Rules and Regulations.~~

11 (c) *Whenever the Commission finds that the operations*
12 *of a department under an approved employment plan are*
13 *not in compliance with such plan or with the Civil Service*
14 *Rules and Regulations, the Commission shall have authority*
15 *(1) to recruit, examine, and certify persons for selection and*
16 *appointment to competitive civil-service positions in such de-*
17 *partment which are subject to such plan, and (2) to modify*
18 *or change any action taken or procedure followed by such*
19 *department under such plan. The Commission shall certify*
20 *to such department any such action taken by the Commission*
21 *under this subsection. The department shall take action in*
22 *accordance with such certificate and such certificate shall be*
23 *binding on the department.*

24 SEC. 7. The Commission, in the case of those examina-
25 tions for which it expects competition to be greatly in excess

1 of the needs of the service, may, with due regard to the prin-
2 ciple of open competition, take such action, or direct that
3 such action be taken by a department, as the Commission
4 deems necessary to limit the number of persons permitted
5 to compete for positions to such number as are reasonably
6 required to meet economically and effectively the needs of
7 the service for qualified and capable employees.

8 SEC. 8. The Commission, or a department as authorized
9 by an approved employment plan, shall rate competitors for
10 selection to competitive civil-service positions either (1)
11 numerically on a scale of 100, ~~or (2) by categories de-~~
12 ~~scribing the degrees of qualifications and capabilities of com-~~
13 ~~petitors; except that category ratings shall not be used in~~
14 ~~the case of competitors for positions in the field service of~~
15 ~~the Post Office Department or (2) by placing them in cate-~~
16 ~~gories of outstanding, well-qualified, qualified, and unqualified.~~
17 *Except under unusual circumstances, category ratings shall be*
18 *used in the case of competitors for professional, administrative,*
19 *and scientific positions of a high level. Category ratings shall*
20 *not be used in the case of competitors for positions in the*
21 *field service of the Post Office Department.*

22 SEC. 9. (a) So much of section 3 of the Veterans'
23 Preference Act of 1944, as amended, as precedes "*Provided,*
24 *That*" is amended to read as follows:

25 "SEC. 3. In those examinations to determine the quali-

1 fications of applicants for entrance into the service in which
2 applicants are rated numerically, ten points shall be added
3 to the earned ratings of those persons included under sec-
4 tion 2 (1), (2), (3), (5), and (6), and five points shall
5 be added to the earned ratings of those persons included
6 under section 2 (4) of this Act, and ~~on~~ *in* those examinations
7 in which applicants are rated by categories such persons
8 shall receive the preference provided by section 7 (b) of
9 this Act:".

10 (b) Section 7 of such Act, as amended, is amended to
11 read as follows:

12 "SEC. 7. (a) For professional and scientific positions
13 for which the entrance salary is over \$3,000 per annum
14 and for which eligibles are rated numerically, the names of
15 preference eligibles shall be entered on the appropriate civil-
16 service registers of eligibles in accordance with their respec-
17 tive augmented ratings and ahead of all eligibles having
18 the same rating who are not entitled to preference. For
19 all other positions for which eligibles are rated numerically,
20 the names of eligibles entitled to ten points preference shall
21 be entered at the top of the appropriate civil-service reg-
22 isters in accordance with their respective augmented ratings,
23 and the names of eligibles entitled to five points preference
24 shall be entered on such registers of eligibles in accordance
25 with their respective augmented ratings and ahead of all

1 eligibles having the same rating who are not entitled to
2 preference.

3 “(b) For professional and scientific positions for which
4 the entrance salary is over \$3,000 per annum and for which
5 eligibles are rated by categories, the names of preference
6 eligibles shall be entered on the appropriate civil-service
7 registers of eligibles in accordance with their respective
8 category ratings and ahead of all others in the same category.
9 For all other positions for which eligibles are rated by cate-
10 gories, the names of preference eligibles shall be entered on
11 the appropriate civil-service registers of eligibles in accord-
12 ance with their respective category ratings and ahead of all
13 others in the same category, except that the names of eligibles
14 ~~entitled to ten points preference~~ *included under section 2 (1),*
15 *(2), (3), (5), and (6)* shall be entered at the top of the
16 highest category.”

17 (c) So much of section 8 of such Act, as amended,
18 as precedes “*Provided, That*” is amended to read as follows:

19 “SEC. 8. (a) When in accordance with civil-service
20 laws and rules, a nominating or appointing officer requests
21 certification of eligibles for appointment purposes, there shall
22 be certified, from the top of the appropriate civil-service
23 register of eligibles, such number of names as may be neces-
24 sary to permit such officer to make a selection for each
25 vacancy in the manner provided by this section.

1 “(b) When eligibles have been rated numerically, the
2 nominating or appointing officer shall be entitled to consider
3 at least three eligibles for each vacancy and shall make
4 selection from not more than the highest three eligibles avail-
5 able for appointment on certification: *Provided*, That the
6 Civil Service Commission may by regulation provide that
7 with respect to certain positions, not including positions in
8 the field service of the Post Office Department, the nomi-
9 nating or appointing officer shall be entitled to consider at
10 least five eligibles for each vacancy and shall make selection
11 from not more than the highest five eligibles available for
12 appointment on certification.

13 “(c) When eligibles have been rated by categories, the
14 nominating or appointing officer shall be entitled to con-
15 sider at least five eligibles for each vacancy and shall make
16 selection from the highest category. The Commission shall
17 prepare standards for determining when the number of
18 eligibles in any category or categories to be considered is
19 insufficient or excessive. If, under such standards, there is
20 an insufficient number of eligibles in the highest category,
21 eligibles in the next highest category or categories shall also
22 be considered for selection. If, under such standards, there
23 is an excessive number of eligibles in the category or cate-
24 gories to be considered, the officer shall make selection from
25 such lesser number of eligibles in such category or cate-

1 gories as may be determined to be sufficient under such
2 standards. Selection of a nonpreference eligible shall not
3 be made in any case if there are available for selection the
4 names of at least five preference eligibles in the same or a
5 higher category.

6 “(d) A nominating or appointing officer shall not be
7 required to consider an eligible for selection if objection to
8 such eligible shall be made and sustained for any proper
9 and adequate reason under regulations prescribed by the
10 Civil Service Commission:”.

11 SEC. 10. Any competitor for selection to a competitive
12 civil service position shall, upon written request to the Com-
13 mission, be entitled as a matter of right to a review by the
14 Commission of the rating given him under section 8 of this
15 Act. After such review the Commission shall take such
16 action as it may find to be proper.

17 SEC. 11. Subject to the Federal Reports Act of 1942,
18 the Commission—

19 (1) shall provide for the maintenance and preser-
20 vation of personnel records, including the records of
21 ~~examinations~~ *examinations*, either by the Commission,
22 or by the departments, or by both, as the Commission
23 may determine; and

24 (2) shall, after consultation with the departments

(when the Commission deems it practicable) , establish uniform standards, practices, procedures, and forms for, or otherwise regulate, the personnel operations of the departments, to the extent that the Commission deems such action to be in the interests of the service.

SEC. 12. As an aid to more effective governmental administration, the Commission is authorized and directed to facilitate the transfer of officers and employees with special qualifications to positions requiring such qualifications by referring the names of such officers and employees to any departments making requests therefor. The Commission shall obtain from other departments, in connection with the filling of such positions, the names of and information with respect to officers and employees with special qualifications, and shall maintain such records as are necessary for the economical and efficient administration of this section.

SEC. 13. (a) The President is authorized to issue such civil service rules, and the Commission is authorized to issue such regulations, as may be necessary for the administration of this Act.

(b) The Commission shall from time to time make such investigations with respect to the operation of this Act as it may deem necessary. The departments shall furnish the Commission such information in connection with

1 such investigations as the Commission may request. The
2 Commission shall take such corrective action as it may
3 deem necessary in the light of such investigations.

4 *SEC. 14. The selection of persons under this Act, and*
5 *the promotion of officers and employees to higher positions,*
6 *shall be made on the basis of merit and efficiency.*

7 *SEC. 15. The provisions of Reorganization Plan Num-*
8 *bered 5 of 1949 shall apply with respect to the performance*
9 *of functions of the Commission under this Act.*

10 ~~SEC. 14~~ 16. There are hereby authorized to be appro-
11 priated such sums as may be necessary to carry out the
12 provisions of this Act.

13 ~~SEC. 15~~ 17. All laws or parts of laws inconsistent with
14 this Act are hereby repealed to the extent of such in-
15 consistency.

16 ~~SEC. 16~~ 18. This Act shall take effect on the ninetieth
17 day after the date of its enactment.

81ST CONGRESS
2^D SESSION

H. R. 8925

[Report No. 2698]

A BILL

To provide a recruitment procedure for the competitive civil service in order to insure selection of personnel on the basis of open competition and merit, and for other purposes.

By Mr. MURRAY of Tennessee

JUNE 22, 1950

Referred to the Committee on Post Office and Civil Service

JULY 20, 1950

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

PROVIDING FOR THE ADMINISTRATION OF PERFORMANCE-RATING PLANS FOR CERTAIN OFFICERS AND EMPLOYEES OF THE FEDERAL GOVERNMENT

AUGUST 10 (legislative day, JULY 20), 1950.—Ordered to be printed

Mr. FREAR, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany H. R. 7824]

The Committee on Post Office and Civil Service, to whom was referred the bill (H. R. 7824), to provide for the administration of performance-rating plans for certain officers and employees of the Federal Government, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

STATEMENT

The purpose of the bill is to provide for a performance-rating system for certain officers and employees of the Federal Government to replace the existing efficiency rating system provided for in title IX of the Classification Act of 1949.

While some of the aspects of H. R. 7824 were included in S. 2111, designed to implement the recommendations of the Commission on Organization of the Executive Branch of the Government (the Hoover Commission) with regard to personnel management, and this committee held extensive hearings on S. 2111, no identical bill to H. R. 7824 was introduced in the Senate; therefore, in reporting H. R. 7824, the Senate Committee on Post Office and Civil Service is adopting the House committee report in full.

AMENDMENTS

In addition to the 10 amendments to the bill as originally introduced, the committee feels that an eleventh amendment should be added to read:

(11) Employees outside the continental limits of the United States who are paid in accordance with local native prevailing wage rates for the area in which employed.

The purpose of this amendment is to add to the 10 categories excluded those employees located outside the continental United States, whose rates of pay are fixed in accordance with local prevailing native wage rates. It is not believed that the application of this performance rating plan to them would serve any useful purpose, and would involve additional work and expense which cannot be justified by the results to be obtained.

The bill is also amended by substituting "outstanding" for "excellent" in line 7, page 4 of original bill; and by substituting "satisfactory" for "excellent" in line 6, page 5 of original bill.

These changes in the bill as it passed the House are in line with the suggestions contained in the attached letter from the Civil Service Commission, July 21, 1950, and are for the reasons given by the Commission in which the committee concurs.

The bill is further amended in line 18, page 4, by inserting "of equal jurisdiction" between the words "review" and "for". The purpose of this amendment is to make clear that when several boards are organized in one department or agency, their jurisdiction would be on the same level and that the appellant would not have successive appeals from one board to another board.

UNITED STATES CIVIL SERVICE COMMISSION,
Washington 25, D. C., July 21, 1950.

HON. OLIN D. JOHNSTON,
*Chairman, Committee on Post Office and Civil Service,
United States Senate.*

DEAR SENATOR JOHNSTON: In response to a request today from Mr. J. Austin Latimer, staff director of your committee, the Commission is glad to submit the following brief report on H. R. 7824, the proposed Performance Rating Act of 1950.

While the Commission prefers the provisions of H. R. 7264, which follow the draft of the Commission's comments in its report of January 31, 1950, we believe that H. R. 7824 represents a substantial improvement over the present uniform efficiency rating system in the Federal service. We urgently recommend, however, that the two following changes be made in the language of H. R. 7824:

In section 6, we recommend that the word "excellent" (p. 4, line 7, of the printed bill) be changed to "outstanding." As you know, the present uniform efficiency rating system prescribes the adjective rating "excellent" as the highest of five adjective ratings. One serious criticism of the present uniform system is that an undue proportion of Federal employees customarily receive the "excellent" rating. We believe that the intent of H. R. 7824 is to reserve the highest of the three ratings for employees who are in every respect outstanding in their performance, and that this highest rating should not be degenerated into an automatic rating for large groups of employees. By using the designation "outstanding" instead of "excellent", the large number of present employees who have been rated "excellent" under the existing system would not feel that they should automatically be given the highest rating under the new system.

We also recommend that the word "excellent" in section 7 (c) (on page 5, line 6 of the printed bill) be changed to "satisfactory". This change would mean that employees with a "satisfactory" rating would not be entitled to an appeal outside

their agencies to an efficiency rating board of review. Such employees would, however, still be able to have their ratings reviewed within their own departments, under the provisions of section 7 (a). The Commission does not feel that a person should be in a position to ask an outside board to declare that his work is outstanding and deserving of special commendation. If this change is adopted, the number of appeals to efficiency rating boards of review would be substantially reduced. At the same time, employees receiving "unsatisfactory" ratings which would involve a penalty action would still have the right to appeal their ratings to an outside board of review.

Because of the need for an immediate report, the Commission has not been able to clear this report with the Bureau of the Budget.

By direction of the Commission:

Sincerely yours,

HARRY B. MITCHELL,
Chairman.

CHANGES IN EXISTING LAW

In compliance with the amendment to rule XXIX of the Standing Rules of the Senate set forth in Senate Resolution 95, Eighty-first Congress, first session, changes in existing law made by the bill (H. R. 7824) as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 701 OF THE CLASSIFICATION ACT OF 1949

SEC. 701. [(a)] Each officer or employee compensated on a per annum basis, and occupying a permanent position within the scope of the compensation schedules fixed by this Act, who has not attained the maximum scheduled rate of compensation for the grade in which his position is placed, shall be advanced in compensation successively to the next higher rate within the grade at the beginning of the next pay period following the completion of (1) each fifty-two calendar weeks of service if his position is in a grade in which the step-increases are less than \$200, or (2) each seventy-eight calendar weeks of service if his position is in a grade in which the step-increases are \$200 or more, subject to the following conditions:

(A) That no equivalent increase in compensation from any cause was received during such period, except increase made pursuant to section 702 or 1002;

(B) [That his current efficiency rating is "Good" or better than "Good";] *That he has a current performance rating of "Satisfactory" or better; and*

[(C)] That the service and conduct of such officer or employee are certified as being otherwise satisfactory by the department; and]

[(D)] (C) That the benefit of successive step-increases shall be preserved, under regulations issued by the Commission, for officers and employees whose continuous service is interrupted in the public interest by service with the armed forces or by service in essential non-Government civilian employment during a period of war or national emergency.

[(b)] The term "good" as used in this title shall have the same meaning as when used in the systems of efficiency rating established pursuant to title IX of this Act.]

SECTION 702 (A) OF THE CLASSIFICATION ACT OF 1949

SEC. 702. (a) Within the limit of available appropriations and in accordance with standards promulgated by the Commission, each department is authorized, subject to prior approval by the Commission (except as provided in subsection (b)), to make additional step-increases as a reward for superior accomplishment, but no officer or employee shall be eligible for more than one such additional step-increase within each of the time periods specified in section 701 [(a)].

SECTION 703 (B) (2) OF THE CLASSIFICATION ACT OF 1949

(2) No officer or employee shall receive a longevity step-increase unless his current [efficiency rating is "good" or better than "good", and his service and conduct are certified as being otherwise satisfactory by the department.] *performance rating is "satisfactory" or better.*

4 PERFORMANCE-RATING PLANS FOR GOVERNMENT EMPLOYEES

SECTION 4 OF THE ACT OF AUGUST 23, 1912 (37 STAT. 413)

[SEC. 4. The Civil Service Commission shall, subject to the approval of the President, establish a system of efficiency ratings for the classified service in the several executive departments in the District of Columbia based upon records kept in each department and independent establishment with such frequency as to make them as nearly as possible records of fact. Such system shall provide a minimum rating of efficiency which must be attained by an employee before he may be promoted; it shall also provide a rating below which no employee may fall without being demoted; it shall further provide for a rating below which no employee may fall without being dismissed for inefficiency. All promotions, demotions, or dismissals shall be governed by provisions of the civil-service rules. Copies of all records of efficiency shall be furnished by the departments and independent establishments to the Civil Service Commission for record in accordance with the provisions of this section: *Provided*, That in the event of reductions being made in the force in any of the executive departments no honorably discharged soldier or sailor whose record in said department is rated good shall be discharged or dropped, or reduced in rank or salary.

[Any person knowingly violating the provisions of this section shall be summarily removed from office, and may also upon conviction thereof be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year.]

THE ACT OF JULY 31, 1946 (5 U. S. C. 669a)

[That no employee in any civilian position in the executive branch of the Government of the United States, other than an employee in or under the field service of the Post Office Department or any employee of the Tennessee Valley Authority, shall be rated as to efficiency except under a system of efficiency ratings approved by the Civil Service Commission, and that the provisions of section 9 of the Classification Act of 1923, as amended, or as may be hereafter amended, shall apply to all efficiency ratings under rating systems approved by the Civil Service Commission.

[The Civil Service Commission is hereby authorized to make and publish rules and regulations for the administration of the provisions of this Act.

[SEC. 2. The provisions of this Act shall be effective upon enactment, except that, with respect to employees in the field services whose positions are not subject to the Classification Act of 1923, as amended, such of the provisions of section 9 of the Classification Act of 1923, as amended, as require the Civil Service Commission to approve reductions in compensation and dismissals for inefficiency, or confer the right to a hearing and review of efficiency ratings by boards of review, shall not become effective until such boards of review in the field services are established as provided in section 7 of the Act of November 26, 1940 (54 Stat. 1215), under regulations prescribed by the Civil Service Commission, with the approval of the President.]

TITLE IX OF THE CLASSIFICATION ACT OF 1949

[TITLE IX—EFFICIENCY RATINGS

[SEC. 901. (a) The Commission shall establish and may revive uniform systems of efficiency rating for the appraisal of the service of officers and employees in positions in the classes and grades provided by this Act. Such systems shall set forth degrees of efficiency which shall constitute ground for (1) the recognition of outstanding performance, (2) the granting of increases in the rate of compensation, (3) continuance at the existing rate of compensation, (4) decrease in the rate of compensation of officers and employees who at the time are above the middle rate for the grade in which their positions are placed, and (5) removal from the position or dismissal from the service.

[(b) Each department shall rate in accordance with such systems the efficiency of each officer or employee under its jurisdiction. Ratings shall be open to inspection by representatives of the Commission and by officers and employees of the department in accordance with regulations issued by the Commission. Each officer or employee shall have the right to inspect the detailed report of his own rating.

[(c) Reductions in compensation, removals from positions, or dismissals from the service shall be made by the departments whenever the efficiency ratings warrant.

【SEC. 902. (a) There shall be established in each department one or more boards of review each of which shall be composed of three members. One member, who shall serve as chairman, shall be designated by the Commission; one member shall be designated by the department concerned; and one member shall be designated by the officers and employees of the department concerned in such manner as may be determined by the Commission.

【(b) Alternate members shall be designated in the same manner as their respective principal members. The boards of review shall meet at the call of their respective chairmen for the purpose of considering and passing upon the merits of such efficiency ratings assigned to officers and employees as may be submitted to such boards of review as hereinafter provided.

【(c) Any officer or employee shall, upon written request to the chairman of the appropriate board of review of his department, be entitled as a matter of right to a hearing and a review by such board of review of his efficiency rating. At the hearing the officer or employee, and such representative as he may designate, and such representatives of the department as may be designated by the department, shall be afforded an opportunity, (1) to submit orally or in writing any information deemed by the board of review to be pertinent to the case, and (2) to hear or examine, and reply to, any such information submitted to such board by other parties. After any such hearing the board may make such adjustment in any such efficiency rating as it may find to be proper.

【SEC. 903. The Commission shall make a study of efficiency rating systems in the Federal service and submit a report to Congress on or before February 1, 1950, setting forth its findings as to the operation and administration of such systems and such recommendations (including specific recommendations for legislation) as it may deem advisable.】

APPENDIX I

HISTORY OF THE EFFICIENCY-RATING SYSTEM IN THE FEDERAL SERVICE

There are records of efficiency-rating systems in Government departments as early as 1887, when they were required to be used in promotion examinations. Presidents Cleveland and Benjamin Harrison both made efforts to have efficiency ratings made so that advancements to higher-paying positions would be based on efficiency. A committee, appointed by President Theodore Roosevelt in 1905, recommended the preparation of semiannual efficiency ratings. It was not until 1912, however, that any serious attempt was made to provide for uniform systems of efficiency ratings.

By the act of August 23, 1912 (37 Stat. 413, 414), the Civil Service Commission was directed to establish uniform systems of efficiency ratings for all departmental services in the District of Columbia, and heads of departments were ordered to rate employees in keeping with such systems.

Under this authority, the Division of Efficiency of the Commission assisted in planning and installing a rating system in the Division of Dead Letters in the Post Office Department. Shortly thereafter, in 1914, the system was modified and extended to all departmental activities of the Post Office Department.

The Division of Efficiency of the Commission became an independent Bureau of Efficiency by the act of February 28, 1916 (39 Stat. 15), and continued cooperative efforts with different departments in the establishment of rating systems.

On October 24, 1921, the President directed the Bureau of Efficiency to "prescribe a system of rating of employees of the classified services of the Federal Government in the District of Columbia." Heads of departments and independent establishments were directed to apply this system to all employees (Executive Order No. 3567).

Section 9 of the Classification Act of 1923 (42 Stat. 1488), authorized the Personnel Classification Board to review and revise uniform systems of efficiency ratings, and established standards for such rating systems. The law required a rating level which must be attained to receive salary advancement within a grade, a rating level to permit retention in the grade without advancement or reduction in pay, a rating level to require reduction in pay within the grade, and a rating level which would require dismissal or demotion in grade. Dismissals, demotions, and pay reductions required by ratings were to be made by heads of departments, subject to the approval of the Board.

By the act of June 20, 1932 (47 Stat. 416), the functions, powers, and duties of the Personnel Classification Board were transferred to the Civil Service Com-

mission, effective October 1, 1932. The following year the Bureau of Efficiency was abolished by the act of March 3, 1933 (47 Stat. 1519), and its property and records were transferred to the Bureau of the Budget.

Section 7 of the Ramspeck Act of November 26, 1940 (54 Stat. 1215), authorized the establishment of independent boards of review to hear and decide efficiency-rating appeals.

Efficiency ratings for employees in the field services were first required by the act of August 1, 1941 (55 Stat. 614), which directed the Commission and heads of departments and independent establishments to apply the efficiency-rating provisions of the Classification and Ramspeck Acts, "as nearly as practicable," to all employees paid under the compensation schedules of the Classification Act.

Efficiency ratings as a factor in reductions in force had been previously authorized by Executive orders, but their use was required by law under the terms of section 12 of the Veterans' Preference Act of June 27, 1944 (58 Stat. 387).

The act of July 31, 1946 (60 Stat. 751), requires Civil Service Commission approval for any efficiency-rating system used for rating employees in the executive branch of the Government, except the Tennessee Valley Authority and the field service of the Post Office Department.

The first efficiency-rating system established under the authority of the Classification Act was developed around a "graphic rating scale." Supervisors made check marks in black ink indicating their opinion of services rendered under different elements or factors on graduated scales. These check marks were reviewed by higher-level supervisors who concurred in the initial marks or indicated differences of opinion by check marks in red ink. The rating forms were then routed to central offices, known as boards of review, where codes were applied to produce a final rating on a percentage basis, specific to two decimal points. These boards of review were also authorized, in their judgment, to adjust ratings to conform to a predetermined pattern of distribution.

This rating system was devised to eliminate the personal element from the ratings. The supervisor did not make the rating—he merely reported his opinion of performance under a group of factors which applied to the employee's position. The reviewing supervisor did not make or approve a rating—he merely reviewed the initial supervisor's judgment as to performance under the various factors. The board of review did not use personal opinion but merely applied a code of weights to the opinions of the supervisors.

During the 10 years of its use, the graphic scale system of rating was very unpopular. No employee was able to obtain an explanation of his rating from any of his supervisors. Supervisors had difficulty in advising employees how to improve performance in order to receive a better rating. Everyone was suspicious of the results at every rating period.

After a series of conferences with representatives of all departments and independent establishments, the Commission revised the efficiency-rating system in 1935. In every possible way, the revised system was the direct opposite of the graphic rating-scale system. Factors were grouped under three headings: "Quality of performance," "Productiveness," and "Qualifications shown on job." Each factor was marked with a "plus" for strong, "minus" for weak, or a check mark if "neither strong nor weak." Numerical ratings were assigned under each heading; 1 or 2 if "excellent," 3 or 4 if "very good," 5 or 6 if "good," 7 or 8 if "fair," and 9 or 10 if "unsatisfactory." The numerical ratings were independent of the factor marks. The final rating was the sum of the three numerical ratings. Adjective ratings were as follows: 3 to 7 "excellent," 8 to 13 "very good," 14 to 19 "good," 20 to 24 "fair," and 25 to 30 "unsatisfactory." There were no definitions. No adjustments were permitted to reach a desired pattern of distribution.

This system also became unpopular because of the absence of any guide lines to indicate what kind of performance was excellent, very good, good, fair, or unsatisfactory. There was almost no basis upon which reviewers of ratings could discover differences of rating standards. Employees soon learned that what was considered as "Good" performance in one department was rated as "Excellent" in a different department.

Numerous changes have been made since 1940 in the rating system for employees in Classification Act positions. Rating elements have been made more specific. Supervisory judgments are reported on the rating elements by the use of symbols designating three evaluation levels. Plus marks now indicate outstanding performance and not merely a show of strength. A check mark signifies adequate performance and not "Neither strong nor weak." Numerical ratings were modified and then eliminated. Final adjective ratings are keyed to the element marks by a definite standard.

The uniform efficiency rating system has been devised by the Civil Service Commission (with the cooperation of the Federal agencies through the Federal Personnel Council), and applies to all Federal employees occupying positions paid under the compensation schedules of the Classification Act.

Ratings are prepared initially by the immediate supervisor, reviewed by higher supervisors, and reviewed and approved by an efficiency rating committee which exercises the authority of the head of the agency. Regular efficiency ratings are made on a standard form which contains 20 factors that are applicable to non-supervisory positions and 11 factors that are available for administrative, planning, and supervisory positions. Only those factors which pertain to the position of the employee are used for the appraisal of that employee's work performance. In a few experiments now being conducted with the approval of the Commission, the work operations or the duties of the position are used instead of the factors listed on the rating form.

After the appropriate factors are selected for a particular position, the especially important ones are shown by underlining. Then a symbol is placed in front of each pertinent factor indicating whether the employee's performance has (/) met, (+) exceeded, or (—) failed to measure up to job requirements. On the basis of these evaluations, a final adjective rating is assigned.

Five adjective ratings are provided: Excellent, very good, good, fair, and unsatisfactory. Each employee is notified of the particular adjective rating assigned by means of a standard form which tells the significance and meaning of the rating and what initial step he may take if he is not satisfied that the rating is correct. Under the uniform plan, the employee has the right to see his own rating form, to know the ratings of other employees of his agency, and to appeal his rating to a board of review.

Up to January 15, 1948, three types of ratings were provided: Regular, probational, and special. Regular ratings were to be made as of March 31 of each year, probational ratings at the end of the tenth month of the probational period, and special ratings when there was no current appropriate rating in record and one was needed for within-grade salary advancement or reduction in force. After the cessation of hostilities, when the size of the Government service was being reduced rapidly, a great many special ratings were made which were based on short periods of service. Consideration of this problem resulted in a change in the uniform efficiency-rating system which eliminated special ratings. Effective January 15, 1948, the system provides for two types of ratings: Entrance and regular. An entrance rating is given when an employee is appointed or changes his position. A regular rating is assigned when the employee has been in his position for 6 months, and annually thereafter on March 31 or in accordance with an agency plan approved by the Commission which might provide a different date or anniversary ratings for individual employees.

Another of the recent revisions of the uniform system incorporates the principle that ratings of "Fair" or "Unsatisfactory" should not be assigned unless the employee was given a warning 3 to 6 months prior to the rating, specifically informing him (a) how his performance fails to meet requirements, (b) how he may improve his performance, (c) that he has the opportunity to bring about such improvement, and (d) that he will receive a "Fair" or "Unsatisfactory" rating if his performance does not improve to meet required standards.

Prior to 1941, an employee who was dissatisfied with his efficiency rating could appeal only to his supervisors who had approved the rating. If any hearing was held, it was before an official, or a board of officials, in his own agency. However, the act of November 26, 1940, authorized the establishment of boards of review to consider efficiency-rating appeals.

This act provided for boards having three members—the chairman to be designated by the Civil Service Commission, one member to be designated by the head of the department, and the third member to be designated by the employees of the department in the manner determined by the Commission. Employees are entitled, as a matter of right, to a hearing and review of their efficiency ratings. They have the right to be represented, to submit information, and to hear, examine, and reply to information presented by other persons at the hearing.

Boards of review were established and began operating in 1941. At that time, only departmental-service employees whose positions were under the Classification Act could appeal to boards of review. This right was extended, insofar as practicable, to Classification Act employees in the field service by the act of August 1, 1941. Regulations were issued in 1942, whereby field service employees whose positions were under the Classification Act were permitted to appeal in writing even though no boards were established in the field service. The depart-

mental service boards took care of these appeals. The right of appeal was extended to other employees by the act of July 31, 1946, even though their positions were not subject to the Classification Act. This law, however, specifically exempted employees in the field service of the Post Office Department and all employees of the Tennessee Valley Authority. The right of a hearing and review for field-service employees whose positions were not under the Classification Act was postponed until field boards of review were established. In 1948, the Commission appointed chairmen of boards in its regional offices and field boards began to be established. A number of them are now in operation.

Efficiency ratings are used as a basis for within-grade pay increases. Title VII of the Classification Act of 1949 provides for successive salary advancements based on several factors, one of which is efficiency ratings. Ratings of "Good" or better permit periodic salary advancement by successive steps up to and including the maximum rate for the grade. Periodic within-grade salary advancements under the law and regulations are made by departments and agencies without review by the Commission.

Efficiency ratings are likewise a factor in calculating the retention credits which are used in determining the order in which employees are affected by reduction in force.

Reductions in compensation, demotions, and dismissals are actions that flow from efficiency ratings of below "Good" and are subject to approval by the Commission in the cases of all graded and ungraded employees in the departmental and field services, except employees of the Tennessee Valley Authority and the field service of the Post Office Department. Accordingly, specific procedures have been issued, governing salary reductions, demotions, and dismissals by heads of departments based on efficiency ratings. These procedures do not apply to employees serving probational periods.

Under these procedures, the employee is given a written notice, at least 30 calendar days in advance of the proposed effective date of the proposed action, stating (1) specifically what the performance requirements of his position are and how he failed to meet these performance requirements; (2) the nature and date of the proposed action, and, in any case of reduction in pay, the grade and title of the position and the new salary rate; and (3) that he may make a written reply to the agency within a specified period which shall be not less than one calendar week from the date of receipt of the notice, stating why the action should not be taken. The agency is required to consider the employee's answer and make such changes and adjustments in the efficiency rating and in the action resulting therefrom as are deemed appropriate. If these procedures are followed, the department's action is approved. In the case of a veteran, the approval is subject to any appeal by the employee under section 14 of the Veterans' Preference Act of 1944. If the employee has appealed his efficiency rating to a board of review, approval is subject to the board's decision on the merits of the rating.



Calendar No. 2267

81ST CONGRESS
2^D SESSION

H. R. 7824

[Report No. 2265]

IN THE SENATE OF THE UNITED STATES

JUNE 20 (legislative day, JUNE 7), 1950

Read twice and referred to the Committee on Post Office and Civil Service

AUGUST 10 (legislative day, JULY 20), 1950

Reported by Mr. FREAR, with amendments

[Omit the part struck through and insert the part printed in italic]

AN ACT

To provide for the administration of performance-rating plans for certain officers and employees of the Federal Government, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Performance Rating Act
4 of 1950".

5 SEC. 2. (a) For the purposes of this Act, the term
6 "department" includes (1) the executive departments; (2)
7 the independent establishments and agencies in the executive
8 branch, including corporations wholly owned by the United
9 States; (3) the Administrative Office of the United States
10 Courts; (4) the Library of Congress; (5) the Botanic

1 Garden; (6) the Government Printing Office; (7) the
2 General Accounting Office; and (8) the municipal govern-
3 ment of the District of Columbia.

4 (b) This Act shall not apply to—

5 (1) the Tennessee Valley Authority;

6 (2) the field service of the Post Office Department;

7 (3) physicians, dentists, nurses, and other em-
8 ployees in the Department of Medicine and Surgery in
9 the Veterans' Administration whose compensation is
10 fixed under Public Law 293, Seventy-ninth Congress,
11 approved January 3, 1946;

12 (4) the Foreign Service of the United States under
13 the Department of State;

14 (5) Production credit corporations;

15 (6) Federal intermediate credit banks;

16 (7) Federal land banks;

17 (8) Banks for cooperatives;

18 (9) officers and employees of the municipal govern-
19 ment of the District of Columbia whose compensation
20 is not fixed by the Classification Act of 1949 (Public
21 Law 429, Eighty-first Congress, approved October 28,
22 1949) ;

23 (10) the Atomic Energy ~~Commission~~ *Commis-*
24 *sion*;

25 (11) *employees outside the continental limits of the*

1 *United States who are paid in accordance with local*
2 *native prevailing wage rates for the area in which*
3 *employed.*

4 SEC. 3. For the purpose of recognizing the merits of
5 officers and employees, and their contributions to efficiency
6 and economy in the Federal service, each department shall
7 establish and use one or more performance-rating plans for
8 evaluating the work performance of such officers and
9 employees.

10 SEC. 4. No officer or employee of any department shall
11 be given a performance rating, regardless of the name given
12 to such rating, and no such rating shall be used as a basis
13 for any action, except under a performance-rating plan
14 approved by the Civil Service Commission as conforming
15 with the requirements of this Act.

16 SEC. 5. Performance-rating plans required by this Act
17 shall be as simple as possible, and each such plan shall
18 provide—

19 (1) that proper performance requirements be made
20 known to all officers and employees;

21 (2) that performance be fairly appraised in rela-
22 tion to such requirements;

23 (3) for the use of appraisals to improve the effec-
24 tiveness of employee performance;

1 (4) for strengthening supervisor-employee rela-
2 tionships; and

3 (5) that each officer and employee be kept cur-
4 rently advised of his performance and promptly notified
5 of his performance rating.

6 SEC. 6. Each performance-rating plan shall provide for
7 ratings representing at least (1) satisfactory performance,
8 corresponding to an efficiency rating of "good" under the
9 Veterans' Preference Act of 1944, as amended, and under
10 laws superseded by this Act; (2) unsatisfactory perform-
11 ance, which shall serve as a basis for removal from the posi-
12 tion in which such unsatisfactory performance was rendered;
13 and (3) ~~excellent~~ *outstanding* performance, which shall be
14 accorded only when all aspects of performance not only
15 exceed normal requirements but are outstanding and deserve
16 special commendation. No officer or employee shall be
17 rated unsatisfactory without a ninety-day prior warning
18 and a reasonable opportunity to demonstrate satisfactory
19 performance.

20 SEC. 7. (a) Upon the request of any officer or em-
21 ployee of a department, such department shall provide one
22 impartial review of the performance rating of such officer
23 or employee.

24 (b) There shall be established in each department one

1 or more boards of review *of equal jurisdiction* for the pur-
2 pose of considering and passing upon the merits of per-
3 formance ratings under rating plans established under this
4 Act. Each board of review shall be composed of three
5 members. One member shall be designated by the head of
6 the department. One member shall be designated by the
7 officers and employees of the department in such manner as
8 may be provided by the Civil Service Commission. One
9 member, who shall serve as chairman, shall be designated
10 by the Civil Service Commission. Alternate members shall
11 be designated in the same manner as their respective prin-
12 cipal members.

13 (c) In addition to the performance-rating appeal pro-
14 vided in subsection (a), any officer or employee with a
15 current performance rating of less than ~~excellent~~ *satisfac-*
16 *tory*, upon written appeal to the chairman of the appropriate
17 board of review established under subsection (b), shall be
18 entitled, as a matter of right, to a hearing and decision on
19 the merits of the appealed rating.

20 (d) At such hearing the appellant, or his designated
21 representative, and representatives of the department shall
22 be afforded an opportunity to submit pertinent information
23 orally or in writing, and to hear or examine, and reply to,

1 information submitted by others. After such hearing, the
2 board of review shall confirm the appealed rating or make
3 such change as it deems to be proper.

4 SEC. 8. (a) The Civil Service Commission is authorized
5 to issue such regulations as may be necessary for the admin-
6 istration of this Act.

7 (b) The Commission shall inspect the administration
8 of performance-rating plans by each department to deter-
9 mine compliance with the requirements of this Act and
10 regulations issued thereunder.

11 (c) Whenever the Commission shall determine that a
12 performance-rating plan does not meet the requirements of
13 this Act and the regulations issued thereunder, the Commis-
14 sion may, after notice to the department, giving the reasons,
15 revoke its approval of such plan.

16 (d) After such revocation, such performance-rating
17 plan and any current ratings thereunder shall become inop-
18 erative, and the department shall thereupon use a perform-
19 ance-rating plan prescribed by the Commission.

20 SEC. 9. (a) Section 701 of the Classification Act of
21 1949 (Public Law 429, Eighty-first Congress, approved
22 October 28, 1949) is hereby amended to read as follows:

23 "SEC. 701. Each officer or employee compensated on
24 a per annum basis, and occupying a permanent position
25 within the scope of the compensation schedules fixed by

1 this Act, who has not attained the maximum scheduled rate
2 of compensation for the grade in which his position is placed,
3 shall be advanced in compensation successively to the next
4 higher rate within the grade at the beginning of the next
5 pay period following the completion of (1) each fifty-two
6 calendar weeks of service if his position is in a grade in
7 which the step-increases are less than \$200, or (2) each
8 seventy-eight calendar weeks of service if his position is
9 in a grade in which the step-increases are \$200 or more,
10 subject to the following conditions:

11 “(A) That no equivalent increase in compensation
12 from any cause was received during such period, except
13 increase made pursuant to section 702 or 1002;

14 “(B) That he has a current performance rating of
15 ‘Satisfactory’ or better; and

16 “(C) That the benefit of successive step-increases
17 shall be preserved, under regulations issued by the Com-
18 mission for officers and employees whose continuous
19 service is interrupted in the public interest by service
20 with the armed forces or by service in essential non-
21 Government civilian employment during a period of war
22 or national emergency.”

23 (b) Section 702 (a) of such Act is amended by striking
24 out “section 701 (a)” and inserting in lieu thereof “section
25 701”.

1 SEC. 10. Section 703 (b) (2) of title VII of the
2 Classification Act of 1949 (Public Law 429, Eighty-first
3 Congress, approved October 28, 1949) is hereby amended
4 to read:

5 “(2) No officer or employee shall receive a longevity
6 step-increase unless his current performance rating is ‘satis-
7 factory’ or better.”

8 SEC. 11. The following Acts or parts of Acts are hereby
9 repealed:

10 (1) Section 4 of the Act of August 23, 1912 (37 Stat.
11 413) ;

12 (2) The Act of July 31, 1946 (60 Stat. 751; 5
13 U. S. C. 669a) ;

14 (3) Title IX of the Classification Act of 1949 (Public
15 Law 429, Eighty-first Congress) .

16 SEC. 12. This Act shall take effect ninety days after the
17 date of its enactment.

18 SEC. 13. There are hereby authorized to be appropriated
19 such sums as may be necessary to carry out the provisions
20 of this Act.

21 SEC. 14. All laws or parts of laws inconsistent herewith
22 are hereby repealed to the extent of such inconsistency.

Passed the House of Representatives June 19, 1950.

Attest:

RALPH R. ROBERTS,

Clerk.

[Report No. 2265]

AN ACT

To provide for the administration of performance-rating plans for certain officers and employees of the Federal Government, and for other purposes.

JUNE 20 (legislative day, JUNE 7), 1950

Read twice and referred to the Committee on Post
Office and Civil Service

AUGUST 10 (legislative day, JULY 20), 1950

Reported with amendments

There being no objection, the Senate proceeded to consider the bill (S. 3136) to authorize the Secretary of the Interior to transfer to the town of Mills, Wyo., a sewage system located in such town, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause, and insert:

That the Secretary of the Interior is authorized and directed to transfer to the town of Mills, Wyo., all right, title, and interest of the United States in and to the 12-inch main sewer and Imhoff tank constructed by the United States in and adjacent to such town, together with any rights-of-way therefor acquired or held by the United States. Such transfer shall be made on condition that the United States shall have a perpetual right to use the sewerage system, and that the town shall operate and maintain such system in a manner which will permit such use by the United States, without charge or liability whatsoever against the United States by reason of the construction, operation, maintenance, or use of the sewerage system.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

DISPOSAL OF GOVERNMENT LOTS IN TOWN SITE OF ST. MARKS, FLA.

The Senate proceeded to consider the bill (H. R. 8028) to authorize the Secretary of the Interior to dispose of the remaining Government lots in the town site of St. Marks, Fla., which had been reported from the Committee on Interior and Insular Affairs with an amendment on page 1, after line 8, to strike out:

Further, the Secretary of the Interior is authorized to transfer to the State of Florida, as a historic site, such lands surrounding and including Fort San Marcos, in such town site, as may be acquired by the Secretary through exchange of the public lands, to be disposed of by this act, for patented lands of equal value.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

REGULATION OF MOTOR CARRIERS ENGAGED IN COMMERCE TO AND FROM TERRITORIES AND POSSESSIONS OF UNITED STATES

The bill (H. R. 8417) to amend part II of the Interstate Commerce Act, with respect to the regulation of motor carriers engaged in commerce to and from the Territories and possessions of the United States was announced as next in order.

Mr. HENDRICKSON. Reserving the right to object, Mr. President, I think this bill requires an explanation.

Mr. JOHNSON of Colorado. Mr. President, as Senators understand, railroad and truck transportation is under the regulation of the Interstate Commerce Commission, but, through an oversight, it would seem, shipments originating between the United States and Territories or possessions of the United States are not under such regulation. In other words, a shipment which might originate in Puerto Rico, for instance,

and is brought to the United States and shipped over our railroads or carried by our trucks, would not be under any regulation whatever by the Interstate Commerce Commission. The only purpose of the bill is to close that gap in the law and bring all such transportation under regulation.

Mr. HENDRICKSON. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the bill (H. R. 8417) was considered, ordered to a third reading, read the third time, and passed.

CONTINUANCE OF SUSPENSION OF DUTIES AND IMPORT TAXES ON METAL SCRAP—BILL PASSED OVER

The bill (H. R. 5327) to continue until the close of June 30, 1950, the suspension of duties and import taxes on metal scrap, and for other purposes, was announced as next in order.

Mr. McMAHON. Mr. President, I have an amendment to the bill, which is lying on the table, and which I should like to call up.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

Mr. SCHOEPEL. It is objected to by request.

The PRESIDING OFFICER. The bill will be passed over.

ELIMINATION OF TAXES ON COCONUT OIL COMING FROM THE TRUST TERRITORY OF THE PACIFIC ISLANDS

The bill (H. R. 8992) to eliminate the additional internal-revenue taxes on coconut oil coming from the Trust Territory of the Pacific Islands, and for other purposes, was announced as next in order.

Mr. HENDRICKSON. Mr. President, I wonder if the distinguished Senator from Georgia would explain the purposes of this bill?

Mr. GEORGE. Mr. President, this is a very simple bill. I have an amendment to offer which would not change the meaning of the bill at all, but which has been suggested by the executive branch of the Government as being necessary. The amendment is recommended by the Department of State. It provides for tax preference for the trust territory in the Pacific Ocean, but, in addition, the amendment which I propose to offer permits the withdrawal of the preference to the extent that the international obligations of the United States so require. The bill would extend to coconut oil derived from copra originating in the Trust Territory of the Pacific Islands the same exemption from the additional processing tax of 2 cents per pound imposed by section 2470 (a) (2) of the Internal Revenue Code now provided with respect to coconut oil derived from copra originating in the Philippine Islands and any possession of the United States producing coconut oil. The bill applies to the territory in the Pacific over which we have assumed the obligation of trusteeship and gives the same preferential treatment.

Mr. HENDRICKSON. I thank the Senator.

Mr. GEORGE. Mr. President, I should like to offer an amendment which does not change the meaning of the bill.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (H. R. 8992) to eliminate the additional internal revenue taxes on coconut oil coming from the Trust Territory of the Pacific Islands, and for other purposes.

Mr. GEORGE. Mr. President, I send forward the amendment to which I have referred.

The PRESIDENT pro tempore. The clerk will state the amendment offered by the Senator from Georgia.

The LEGISLATIVE CLERK. At the end of the bill it is proposed to strike out the period, insert a colon, and the following:

Provided, That the additional tax imposed by this subsection shall not apply with respect to coconut oil (whether or not contained in a combination or mixture) wholly produced in the Trust Territory of the Pacific Islands or produced from materials, the growth or production of the trust territory, except to the extent that the President may determine and proclaim is required by any international obligation of the United States.

SEC. 2. Section 2483 of the Internal Revenue Code (relating to payment of proceeds of processing tax) is hereby amended by striking out the words "Guam or American Samoa" wherever appearing therein and inserting in lieu thereof the following: "Guam, American Samoa, or the Trust Territory of the Pacific Islands."

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. GEORGE. Mr. President, I offer for the RECORD a statement by the Secretary of Defense, giving an exact description of the so-called Trust Territory of the Pacific Islands. I think it will be helpful to have it in the RECORD. I ask unanimous consent that it may be inserted in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

OFFICE OF THE SECRETARY OF DEFENSE,
Washington, D. C., June 28, 1950.

Mrs. ELIZABETH SPRINGER,
Senate Finance Committee,
Senate Office Building.

DEAR Mrs. SPRINGER: The following description of the Trust Territory of the Pacific Islands is furnished in compliance with your telephonic request of this afternoon:

"The Trust Territory of the Pacific Islands covers an area of some 3,000,000 square miles in the western Pacific Ocean north of the Equator. The territory contains 96 distinct island units with a combined land area of about 687 square miles. The territory comprises those islands formerly held by Japan under mandate from the League of Nations and consists of those Micronesian island groups known as the Marshalls, the Carolines, and the Marianas (with the exception of Guam). The islands forming the trust territory stretch from about latitude 1° to

20° north and from longitude 130° to 170° east. The distance from Tobi Island in the extreme west of the Carolines to Mili Island in the extreme east of the Marshalls is about 2,400 nautical miles or 2,765 statute miles.

"From the termination of Japanese control until July 18, 1947, the islands now included in the Trust Territory were under military government administered by the United States Navy. On that date military government was ended by the President of the United States when he approved the trusteeship agreement between the United States and the Security Council of the United Nations for the Trust Territory of the Pacific Islands. On the same date the President by Executive Order 9875, delegated to the Secretary of the Navy the responsibility for civil administration of the Trust Territory on an interim basis and until such time as a civilian department or agency should be designated to have permanent responsibility for the government of the area."

The above-quoted information was extracted from a brochure, entitled, "Trust Territory of the Pacific Islands," prepared by the Department of the Navy in July 1948 (OPNAV-PZZ-100E), which contains information transmitted to the Secretary-General of the United Nations pursuant to article 88 of the Charter. I mention this so that you may request the brochure from the Department of the Navy in the event the committee desires additional information in connection with this subject.

Very truly yours,

(Miss) M. L. SPILMAN,

Secretary to the General Counsel.

EXCLUSION FROM CERTAIN TAXES OF CERTAIN WORKS OF ART LOANED TO NATIONAL GALLERY OF ART

The joint resolution (H. J. Res. 497) excluding from gross estate of a non-resident alien works of art on loan to the trustees of the National Gallery of Art was considered, ordered to a third reading, read the third time, and passed.

AMENDMENTS TO RAILWAY LABOR ACT—BILL PASSED OVER

The bill (S. 3295) to amend the Railway Labor Act and to authorize agreements providing for union membership and agreements for deductions from the wages of carriers' employees for certain purposes and under certain conditions, was announced as next in order.

Mr. HOEY. I ask that that bill go over.

Mr. THOMAS of Utah. Mr. President, will the Senator withhold his objection for a moment?

Mr. HOEY. Very gladly.

Mr. THOMAS of Utah. The committee has come to a unanimous agreement with reference to the bill, and the objection being made is not an objection made by any member of the committee. That is the first point I want to make.

The next point is that unless the Senator from North Carolina objects, I should like to ask that the bill go to the foot of the calendar—unless there is a real objection to the consideration of the bill today.

Mr. HOEY. Mr. President, I am opposed to the bill as originally reported to the Senate, and I would be opposed to having it placed at the foot of the calendar, unless there have been changes made in it—

Mr. THOMAS of Utah. That brings me to the point I want to present to the Senate.

When the bill was reported it was with the understanding that three of the minority members would work on amendments. Those amendments have been accepted by the full committee, and I should like to offer them, and, if there is no objection, have them adopted.

The PRESIDENT pro tempore. Does the Senator from North Carolina withdraw his objection for that purpose?

Mr. HOEY. I have no objection to the amendments being offered.

Mr. McCARRAN. Mr. President, I think, if I am not misadvised, that the amendments go to the very substance of the bill. I think they should not be adopted in a haphazard manner. I think they should be presented when they can be studied and considered. I would object to that procedure.

Mr. THOMAS of Utah. If any Senator objects, that is all right; but the amendments do not go to the substance of the bill. I thought if we could protect the bill, when the time comes, that much will have been done.

Mr. McCARRAN. Mr. President, I do not think that procedure should be encouraged in the Senate.

The PRESIDENT pro tempore. Objection is heard.

Mr. SMITH of New Jersey. Mr. President, will the Senator withhold his objection for a moment?

Mr. McCARRAN. Yes.

Mr. SMITH of New Jersey. We have been in conference with labor leaders who are interested in the matter, and the amendments which the distinguished Senator from Utah [Mr. THOMAS] has offered met with complete agreement on the part of the labor people and the members of the committee. That is why they have been offered. I hope under those conditions the Senator from Nevada will not object.

Mr. McCARRAN. Evidently amendments are to be offered to the bill. What I object to is the procedure. Apparently there is a diversity of opinion on this bill so far as labor leaders are concerned. I do not know what the merits are, but in view of the fact that amendments are being offered to a bill at a time when only 5 minutes of debate is permitted, it seems to me the procedure is not what it should be on a bill of this importance. It is the procedure I am objecting to.

The PRESIDENT pro tempore. Objection is heard. The bill will go over.

BILL PASSED OVER

The bill (S. 706) providing equal pay for equal work for women, and for other purposes, was announced as next in order.

Mr. HENDRICKSON. Mr. President, I do not believe this bill should be considered on the call of calendar bill. I think it should be taken up on a day when it can be thoroughly debated.

The PRESIDENT pro tempore. Objection being heard, the bill will go over.

CLARIFICATION OF STATUS OF FREIGHT FORWARDERS

The bill (H. R. 5967) to amend the Interstate Commerce Act, as amended, to clarify the status of freight forwarders and their relationship with motor common carriers was announced as next in order.

Mr. SCHOEPPPEL. Over, by request.

Mr. MAGNUSON. Mr. President, I wonder if the Senator from Kansas would agree to have the bill go to the foot of the calendar so that I may find out who objects and why?

Mr. SCHOEPPPEL. I have no objection to indicating to the Senator that it was the Senator from Ohio [Mr. BRICKER] who made the objection. He is not present, and I would assume that he wants objection to the bill made by the calendar committee. I have no objection to having the bill go to the foot of the calendar.

Mr. McCARRAN. Mr. President, we could not hear the colloquy.

The PRESIDENT pro tempore. The Chair could not hear it either.

Mr. SCHOEPPPEL. The Senator from Washington requested that the objection be withheld and that the bill be permitted to go to the foot of the calendar.

The PRESIDENT pro tempore. Is there objection?

Mr. McCARRAN. I object to the procedure, and I shall object to such procedure through the calendar call. When such procedure is followed it means that we go over the calendar several times. If there is an objection to a bill, the Senator objecting should know at this time whether or not it will be objected to at the foot of calendar. I shall object to any bill going to the foot of the calendar.

Mr. MAGNUSON. Will the Senator yield for an observation?

Mr. McCARRAN. I yield.

Mr. MAGNUSON. It seems to me to be desirable to be able to place a bill at the foot of the calendar, because before a bill is called we have no idea who will object to it. Very often objection is made because the purpose of the bill is not understood. Therefore, if the bill goes to the foot of the calendar, it gives us an opportunity to find out who is objecting and an opportunity to discuss the matter with the Senator and thus expedite the business of the Senate.

Mr. McCARRAN. The business of the Senate can be expedited by reverting to a bill which has been passed over. On the last call of the calendar we nearly doubled the amount of time consumed in the call of the calendar by following the procedure suggested by the Senator from Washington.

The PRESIDENT pro tempore. Objection is heard. The bill will go over.

PERFORMANCE-RATING SYSTEM FOR CERTAIN OFFICERS AND EMPLOYEES OF THE FEDERAL GOVERNMENT

The Senate proceeded to consider the bill (H. R. 7824) to provide for the administration of performance-rating plans for certain officers and employees of the Federal Government, and for other purposes, which had been reported from the Committee on Post Office and Civil Service with amendments on page 2, line 23, after the word "Energy", to strike out "Commission." and insert "Commission;

"(11) employees outside the continental limits of the United States who are paid in accordance with local native prevailing wage rates for the area in which employed"; on page 4, line 13.

after "(3)", to strike out "excellent" and insert "outstanding"; on page 5, line 1, after the word "review", to insert "of equal jurisdiction"; and in line 15, after the word "than", to strike out "excellent" and insert "satisfactory."

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

SIMPLIFICATION OF CUSTOMS COLLECTIONS ON SOUND RECORDINGS

The bill (H. R. 7447) to amend the Tariff Act of 1930, as amended, with respect to sound-recording materials for use in connection with moving-picture exhibits and news reels, was announced as next in order.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. HENDRICKSON. Mr. President, reserving the right to object I would appreciate very much if the distinguished Senator from Georgia would explain the purpose of the bill.

Mr. GEORGE. Mr. President, the bill would facilitate the importation of sound recordings for radio, television, and news broadcasts, or for use in reproducing sound in connection with moving-picture news reels by eliminating the difficult and time-consuming task of calculating the value for the purpose of assessing the duty of the dutiable recording. Under the bill the duty would be calculated on a mechanical basis, which would save time in making the computations.

Mr. HENDRICKSON. I thank the Senator from Georgia.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (H. R. 7447) to amend the Tariff Act of 1930, as amended, with respect to sound-recording materials for use in connection with moving-picture exhibits and news reels, which had been reported from the Committee on Finance, with an amendment on page 2, after line 9, to strike out:

SEC. 2. That paragraph 1726 of the Tariff Act of 1930, as amended, is hereby amended by changing the period at the end thereof to a semicolon and by adding thereafter the following: "and photographic or magnetic film, tape, wire, or other material of any kind on which sound has been recorded abroad by photography, magnetism, or any means whatsoever, and which is suitable for use in reproducing sound in connection with moving-picture news reels (not including any photographic film not provided for hereinbefore on which pictures have been recorded)."

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

The title was amended so as to read: "An act to amend the Tariff Act of 1930, as amended, with respect to sound-recording materials for use in connection with moving-picture exhibits."

EXEMPTION FROM DUTY OF SOUND RECORDINGS FOR NEWS BROADCASTS

The bill (H. R. 8726) to amend the Tariff Act of 1930 to exempt from duty sound recordings for news broadcasts was announced as next in order.

Mr. SCHOEPEL. Mr. President, may I ask the distinguished Senator from Georgia whether this bill is a companion measure to House bill 7447?

Mr. GEORGE. It is a companion bill. The purpose of the bill is to facilitate the importation of sound recordings.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (H. R. 8726) to amend the Tariff Act of 1930 to exempt from duty sound recordings for news broadcasts, which had been reported from the Committee on Finance, with an amendment on page 1, line 6, after the word "States", to insert "or suitable for use in reproducing sound in connection with moving-picture news reels."

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "An act to amend the Tariff Act of 1930 to exempt from duty sound recordings for news broadcasts and in connection with moving-picture news reels."

TREATMENT FOR CENSUS PURPOSES OF WESTVIEW AND SOUTHVIEW AS PART OF SPRINGFIELD, VT.

The Senate proceeded to consider the joint resolution (S. J. Res. 194) to provide that the housing developments known as Westview and Southview in the town of Springfield, Vt., shall for the purposes of the seventeenth decennial census be treated as a part of the village of Springfield, Vt., which had been reported from the Committee on Post Office and Civil Service with an amendment on page 2, line 4, after the word "the", to strike out "town" and insert "village", so as to make the joint resolution read:

Resolved, etc., That the housing developments known as Westview and Southview in the village of Springfield, Vt., shall for the purposes of the seventeenth decennial census be treated as a part of the village of Springfield, Vt.

The amendment was agreed to.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The title was amended so as to read: "Joint resolution to provide that the housing developments known as Westview and Southview in the village of Springfield, Vt., shall for the purposes of the seventeenth decennial census be treated as a part of the village of Springfield, Vt."

AUTHORIZATION FOR APPOINTMENT OF COL. HENRY A. BYROADE AS DIRECTOR OF BUREAU OF GERMAN AFFAIRS

The bill (S. 3807) to authorize the President to appoint Col. Henry A. By-

roade as Director of the Bureau of German Affairs, Department of State, without affecting his military status and perquisites, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That, notwithstanding the existing provisions of law or any rules or regulations issued thereunder, the President is authorized to appoint Col. Henry A. Byroade, an officer in the Army of the United States, for a period not to exceed 2 years as Director, Bureau of German Affairs, or its successor in the Department of State, and Colonel Byroade's appointment to, acceptance of, and service as such Director of German Affairs shall in no way affect any status, office, rank, or grade he may occupy or hold in the Army of the United States or any component thereof, or any emolument, perquisite, right, privilege, eligibility for promotion, or benefit incident to or arising out of any such status, office, rank, or grade: *Provided,* That so long as he remains Director, Bureau of German Affairs, or its successor, Colonel Byroade shall receive compensation at the rate of \$15,000 per annum and such traveling allowances as the Secretary of State shall prescribe, payable from appropriations made by law for the Department of State, in lieu of his military pay and allowances.

SEC. 2. In the performance of his duties as Director of the Bureau of German Affairs or its successor, Colonel Byroade shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were in no way connected with the Department of Defense or the Army of the United States or any component thereof.

SEC. 3. All periods of service performed by Colonel Byroade pursuant to the authority of this act shall be credited as active service in the Army of the United States for pay, promotion, and all other purposes.

EXTENSION OF FEDERAL-STATE SYSTEM OF PUBLIC EMPLOYMENT OFFICE TO PUERTO RICO AND VIRGIN ISLANDS

The bill (S. 3546) to extend the act of June 6, 1933 (48 Stat. 113), as amended, to Puerto Rico and the Virgin Islands, and for other purposes, was announced as next in order.

Mr. SCHOEPEL. Mr. President, reserving the right to object, may we have an explanation of the bill?

Mr. LEHMAN. Mr. President, this bill to extend the Wagner-Peyser Act to Puerto Rico and the Virgin Islands was unanimously reported by the subcommittee which considered it and by the full Labor Committee. Its purpose is to permit the establishment of public employment offices in Puerto Rico and the Virgin Islands in the same manner and for the same purposes for which those offices are now established in the other States and Territories.

I wish to emphasize that such offices are established today in every State of the Union, as well as in Alaska.

The other purpose of this bill is to strike out of the Wagner-Peyser Act the requirement that the States match Federal grants for the administration of the employment offices. This proviso has been found by experience to be unrealistic; for the past several years, since 1946, the administration of these public employment offices has been paid for entirely by Federal grants to the States, under the authority of the annual appropriation acts. This provision of the

bill would merely bring the Wagner-Peyser Act into line with congressional intent as expressed in the annual appropriation measures.

The additional cost is estimated at approximately \$380,000. For Puerto Rico it would be \$342,000, and for the Virgin Islands \$38,000. I may add that in my opinion and in the opinion of the committee the bill would serve a very real purpose in securing employment for a large number of people in Puerto Rico and also in assuring that when they came to this country, they would be directed to jobs which would have some substantiality and, we hope, would be permanent. Today they are coming in without any direction, and some of them are being exploited by irresponsible people. I feel such evil would be largely dissipated if we had an employment office in Puerto Rico, as we have in all the other States.

Mr. LUCAS. Mr. President, it seems to me, from what the Senator from New York has said, that Puerto Rico really needs an office of the kind proposed, probably more than the States need it, in order to be able to discriminate with respect to those who come in seeking employment, which is not being done at the present time.

Mr. LEHMAN. I agree with the distinguished Senator.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the bill (S. 3546) was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That section 3 (b) of the act of June 6, 1933 (48 Stat. 113), as amended, is hereby amended to read as follows:

"(b) Whenever in this act the word 'State' or 'States' is used, it shall be understood to include Hawaii, Alaska, Puerto Rico, and the Virgin Islands."

Sec. 2. Section 5 of said act is amended to read as follows:

"(a) There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts from time to time as the Congress may deem necessary to carry out the purposes of this act.

"(b) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State which (i), except in the case of Puerto Rico and the Virgin Islands, has an unemployment compensation law approved by the Secretary under the Federal Unemployment Tax Act and is found to be in compliance with section 303 of the Social Security Act, as amended, and (ii) is found to be in compliance with the act of June 6, 1933 (48 Stat. 113), as amended, such amounts as the Secretary determines to be necessary for the proper and efficient administration of its public employment offices."

Sec. 3. Sections 6 and 7 of the act are hereby repealed.

MINIMUM OF 4 YEARS' TRAINING FOR VETERANS

The bill (S. 3499) to grant persons entitled to vocational rehabilitation under part VII, Veterans Regulations No. 1 (a), as amended, a minimum of 4 years' training, was announced as next in order.

Mr. HENDRICKSON. Mr. President, I would appreciate very much if the dis-

tinguished Senator from Florida would tell the Senate the cost involved in the proposed legislation.

Mr. PEPPER. Mr. President, I am not sure I can give the Senator the cost in terms of dollars and cents, although it is obvious it would not be a very large item. But I should like to emphasize the fairness we are trying to provide for veterans who have sustained injuries as a result of service in war.

We discovered that there were cases of veterans who had sustained injuries; in other words, had service-connected disabilities, who were taking training under Public Law 16, which is the Vocational Training Act, yet those veterans were being denied as long a period of training as they would have had if they had not sustained injuries in service, that is, if they were ordinary GI's taking training under the law.

All that is done by the measure the committee has reported is to put the wounded veteran on the same basis with the nonwounded veteran with respect to the period of education he is entitled to receive. I am sure the Senator would not oppose that principle of fairness. In other words, it works out in detail like this: The Veterans' Administration can give a wounded veteran a shorter period of training or education than a nonwounded veteran, as a matter of right. We are merely providing that a man who has been wounded should not be required to accept a shorter period of training or education than he would have been entitled to under the GI law, Public Law 16, had he not sustained wounds in his service.

Mr. HENDRICKSON. I wonder if the Senator would tell the Senate how many veterans would be covered by the provisions of the bill.

Mr. PEPPER. Theoretically it would apply to all the veterans who are obtaining vocational training under Public Law 16 who might be given a shorter period of training.

Mr. HENDRICKSON. Has the Senator no estimate of the number of veterans involved?

Mr. PEPPER. A member of the staff on veterans' affairs tells me that the number theoretically might run as high as 420,000.

Mr. HENDRICKSON. Yet the Senator says the cost would be very small. I do not see how he can reconcile those statements.

Mr. PEPPER. My reason for saying that is that probably the period of education on no occasion would exceed a year, or perhaps a few months. We learned of cases all over the country where men who had been wounded in service were required to accept a shorter period of training than they would have been entitled to as a matter of right had they not been wounded, but had been ordinary GI's. All we are trying to do is to put the wounded man on at least as good a basis as he would have been on had he not been wounded.

Mr. HENDRICKSON. There is no Member of the Senate who has more interest in the veterans of the country than has the junior Senator from New Jersey, but it is very obvious to me, from

the Senator's statement, that this measure would result in the expenditure of a very large sum of money, and I think the Senate ought to know, before it passes a bill of this kind, what the cost would be.

Mr. PEPPER. Will the Senator allow the bill to go to the foot of the calendar?

Mr. HENDRICKSON. No; I am going to follow the same course the distinguished Senator from Nevada [Mr. McCARRAN] has urged upon the Senate. I do not think we should put these bills at the foot of the calendar.

I conclude by saying that the bill is opposed by the Veterans' Administration, who ought to know more about this matter, probably, than anybody else, and it is also opposed by the Bureau of the Budget. Therefore, I object.

Mr. THOMAS of Utah. Mr. President—

Mr. HENDRICKSON. I withhold the objection, if the Senator from Utah wishes to debate the bill.

Mr. THOMAS of Utah. Mr. President, when we wrote the soldier education law, it was understood that so far as cost was concerned, no one could estimate what the cost would be. We put in the neighborhood of 14,000,000 men and women under arms, and all of them have rights under the soldier education law.

There is just one point to this bill, namely, that a man's time for training depends upon the time he was in active service. Of course, if a man was wounded on the first day of his service, and then went into a hospital, he would be entitled to only 1 day of training. Yet has he not done something for his country? Is he not worthy of rehabilitation?

My plea is simply that in the contingencies of war, and taking into consideration the way the law was written, we did as well as we could do in framing the law. If a man were wounded he was taken out of service, and he might be in a military hospital for a year or two. Yet when he comes out he is certainly entitled to the same rights to which he would have been entitled if he had not been wounded.

The PRESIDENT pro tempore. Objection is heard, and the bill will be passed over.

PURCHASE OF AUTOMOBILES BY CERTAIN DISABLED VETERANS

The Senate proceeded to consider the bill (S. 3768) to authorize payments by the Administrator of Veterans' Affairs on the purchase of automobiles or other conveyances by certain disabled veterans, and for other purposes, which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

That there is hereby authorized to be appropriated to the Veterans' Administration the sum of \$800,000 to remain available until June 30, 1951, to enable the Administrator of Veterans' Affairs to provide an automobile or other conveyance, at a cost per vehicle or conveyance of not to exceed \$1,600, including equipment with such special attachments and devices as the Administrator may deem necessary, for each veteran of World War II who is entitled to compensation for the loss, or loss of use, of one or both legs at or above the ankle under the laws administered by the

course, that was a logical and natural base to use. It happens, however, that those years, 1937 to 1939, were very poor years in the State of Nebraska. We had a drought and various other difficulties to contend with; and earnings were not good, generally speaking.

As a result, the wartime earnings of thousands of corporations in Nebraska, when compared with the earnings in the base years, 1937 to 1939, fell within the definition of "excess", as set forth in the law. Some relief was supposed to be provided in that type of situation, of course. There was supposed to be a recognition of such factors, under section 722, so that corporations caught in such a situation could expect those administering the law to realize that the earnings during the base period were not in any sense normal. As the distinguished chairman of our committee recently pointed out on the Senate floor, section 722 has not worked at all satisfactorily from the point of view of most of us on the committee. It has simply not provided the measure of relief it was supposed to provide.

I do not intend to be caught, or to have the people of my State caught, in that type of situation again if I can help it. I believe that the Senate Finance Committee and the House Ways and Means Committee have a responsibility to work out methods of giving real relief to those taxpayers who deserve it. I do not believe that adequate measures of relief can be worked out hastily on the floor of the Senate.

It is all right to talk about taxing 85 percent of earnings which are really excess. It is something else to take 85 percent of earnings which are really normal, and not actually excess.

Let me say that so far as I know, I have no particular reason for objecting to the years, 1946-1949, proposed as a base period in the amendment that is pending. So far as I know, these years were generally good, normal years for corporations throughout the country. So far as I know, the selection of those years would do no particular injustice to the taxpayers of my State.

But the difficulty is that those years, or any other years that might be selected, might not be a fair and equitable base for every class of taxpayer in every part of the country. It is a common experience that even during boom times some particular industries or some particular States are relatively depressed. As a result, their base period gives them a relatively low level of normal earnings, for excess profits tax purposes, and the high rates of the excess profits tax may be a crushing burden on taxpayers caught in that situation.

I can give one example off-hand where that might be the case. The Territory of Hawaii, with whose problems the Senator from Wyoming is very familiar, has since the end of the war been visited with a series of devastating strikes. Not a single year has gone by without a prolonged industrial struggle in one or more of the three or four industries on which all business in the Islands depends. Last year—1949—for example, as I am sure the Sen-

ator recalls, the entire business life of the Territory was brought virtually to a dead halt by a strike of the longshoremen which lasted about 6 months. During that period, shipping could not move. The sugar mills and sugar plantations curtailed operations or closed them down completely because they could not ship their products. The commercial establishments dependent on these basic industries saw their sales slump. I have not tried to secure exact figures for the earnings of corporations in Hawaii for 1949, but I cannot imagine that anyone made very much money during that year, if any.

The Senator's amendment, by including the year 1949 in the tax base, would require Federal taxpayers in Hawaii to consider 1949 as a normal year for tax purposes. Any earnings above that level would be considered excess and taxable at 85 percent. In 1946, 1947, and 1948, likewise, there were damaging strikes, although not so bad as the one of 1949. I feel sure that the Senator's amendment, if enacted, would bear down extremely heavily on the taxpayers of Hawaii, who are struggling to recover from the series of disastrous losses and to rebuild the economic productivity of the Territory.

Of course, situations of this type are supposed to be taken care of by the various provisions for relief contained in the basic statute. During the war we had the "75 percent" rule, the "growth formula," and, in some cases, a predecessor's earnings. Then we had section 722. Section 722 was supposed to provide in all those cases which could not be reached by any of the other provisions of the act.

The simple fact, however, is that all these relief provisions taken together did not really solve the problem. On that point, let me quote but one sentence from an article by the distinguished economist, Roy Blough, who has recently been named a member of the President's Council of Economic Advisors. In an article entitled "Measurement Problems of the Excess Profits Tax," appearing in the *National Tax Journal*, December 1948, Mr. Blough says:

Neither the relief afforded by the 1918 act, nor that by the 1942 act, can be considered a success.

In the face of this record, the amendment proposes to restore intact the system that we had during World War II.

Now, as to the specific provisions of the amendment offered by the Senator from Wyoming [Mr. O'MAHONEY], as I understand, in his latest proposal he intends to use 80 percent of the average earnings of the years 1946 to 1949 as the base, and to apply the 85 percent rate to earnings above that level. As I stated before, I have no particular objection offhand to the selection of these years, but I question the proposal to take 80 percent of average earnings as a legitimate base for an excess-profits tax.

It is clear that the Senator from Wyoming considers the earnings of some of those years too high. He wants to cut them all back to 80 percent of what they

made during that period. In other words, this proposal is not a war-profits tax at all. The earnings of 1946 to 1949 may have been too high or not, but they were peacetime earnings. They were properly subject to normal tax and surtax, and, under this bill, the tax rates on those earnings will already be increased sharply up to a level of 45 percent—nearly half.

The Senator from Wyoming feels that that does not go far enough. He wants to apply the excess profits rate of 85 percent to a portion of the peacetime earnings of substantially all the larger corporations. He wants to place this 85 percent rate on top of the 45 percent rate of normal tax and surtax which the committee has recommended.

It may be that that is the thing to do, but I do not believe that is the type of decision the Senate wants to make hastily on the floor. The distinguished chairman of the committee has promised that the committee will go promptly to work at drafting a proper excess profits tax law, and that, if enacted, it will be retroactive to January 1, 1951. I want to register now my support for the chairman in that program. I believe, however, that when the committee gets into this question it will want to go very carefully into this problem of the appropriate base, above which the excess-profits tax would apply. It is rather important whether we should decide that the base be the average earnings of taxpayers during a series of normal peacetime years or, as the Senator from Wyoming has proposed, whether that base should be only 80 percent of the normal peacetime earnings of the taxpayers.

Senators will please remember that we are already proposing to tax all these earnings of the larger corporations at 45 percent. We are not proposing that the large peacetime profits at the 1946-49 rate, to which the Senator from Wyoming objects, should go scot free.

The committee bill has already provided that we take nearly half of those earnings. I cannot see why we must be so hasty about taking 85 percent of the other half of earnings no greater than those received by taxpayers during the peacetime years of 1946 to 1949.

As a matter of fact, the proposal of the Senator from Wyoming is not based purely on our need of revenue to finance the war. The Senator from Wyoming has been in favor of an excess profits tax for a long time. Two or three years ago, when we were all more hopeful of a prolonged period of peace, he proposed that we add an excess-profits tax to our regular peacetime revenue system. He would be glad enough to have an excess-profits tax adopted by the Congress at any time, peace or war. His insistence on adoption of this amendment right now, instead of a few months from now, is an indication of his feeling on that matter.

I do not question his right to hold those views. He has a perfect right to advocate an excess-profits tax at the height of prosperity or in the depth of depression, during war or peace, or both. I am merely trying to point out that the chairman has promised us that there

will be an excess-profits tax within a very few months, if the present crisis continues. He has promised us that it will be a more carefully considered and carefully drafted measure than the amendment we have before us.

We all know the headaches which result from improperly drawn tax laws. No single subject that the Senate has to consider requires more careful consideration, more conscientious attention to detail and to the exact shade of meaning of every word in every paragraph. It is an absolute certainty that if we adopt this amendment we shall have to do the whole job over again next year. I know that Members of the Senate will not want to have to apologize to constituents in their States because they voted for a bill which does not mean exactly what we thought it would mean. Yet that is what we may have to do if this amendment is adopted.

Mr. President, I hope the Senate will stand by the distinguished chairman of the Senate Finance Committee. We all know that no Member of the Senate has had the years of experience with tax matters that he has. He has promised us that the staff of the joint committee will go promptly to work on this problem and that we will have an excess-profits tax bill to act on early next year. We all know that we can depend absolutely upon his promises. He has repeatedly proved to the Senate that he will not use his position as chairman to pigeon-hole or stall or delay any measure on which the Senate desires to vote and reach a decision.

As chairman of the committee, he feels he has the responsibility to make sure that the tax legislation enacted by the Senate is fair and workable, whether he happens to agree with every provision of it or not. He is entitled to our support in carrying out that responsibility.

Now it is proposed to thrust on him from the floor of the Senate a highly complicated and technical tax program on which the Treasury has never passed judgment, the committee has never passed judgment, and the staff of the Joint Committee on Internal Revenue Taxation has never reached a conclusion. I believe the Senate should support the chairman and the committee and give us an opportunity to do this job properly in the way he feels that it should be done.

Mr. President, in conclusion I ask unanimous consent to insert in the RECORD at this point an editorial from the Washington Evening Star of August 25, 1950, entitled "Delay Would Be Wiser," with the thought that it expresses, to my mind, the general opinion of people throughout the country.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington (D. C.) Star of August 25, 1950]

DELAY WOULD BE WISER

There is little doubt that an excess-profits tax will be added to other methods to raise the enormous amount of extra revenue required to finance the war in Korea and to build up our defenses. Certainly there is no inclination on the part of the administra-

tion to resist such a tax. But the President's tax program is more sensible than the drive now headed by Senator O'MAHONEY to attach an excess-profits tax, by Senate amendment, to the quickie tax bill now pending in the Senate.

This bill is designed for quick passage, in time to apply the higher personal income and corporation taxes in the final quarter of this year, which starts in October. All the machinery for collecting the tax is available. But the perfection of a workable and fair excess profits tax will require more time, both in the writing of the bill and in preparing for its administration. The tax is a complicated one. The Government is still cleaning up the leftovers of this tax levied in World War II and its technicians are still trying to improve on its form.

To attempt to attach an excess profits tax provision to the pending bill, without benefit of careful committee examination, is apt to snarl the works. It may delay passage of any tax bill. The more reasonable procedure would be to enact the stop-gap bill now, in the knowledge that its provisions will be supplemented later—perhaps in January—by additional measures, including an excess-profits tax.

DISPOSAL OF REMAINING GOVERNMENT LOTS IN ST. MARKS, FLA.

The VICE PRESIDENT laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H. R. 8023) to authorize the Secretary of the Interior to dispose of the remaining Government lots in the town site of St. Marks, Fla., and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. O'MAHONEY. I move that the Senate insist upon its amendment, agree to the request of the House for a conference, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Vice President appointed Mr. O'MAHONEY, Mr. MURRAY, and Mr. BUTLER conferees on the part of the Senate.

ADMINISTRATION OF PERFORMANCE-RATING PLANS FOR CERTAIN GOVERNMENT OFFICERS AND EMPLOYEES

The VICE PRESIDENT laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H. R. 7824) to provide for the administration of performance-rating plans for certain officers and employees of the Federal Government, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. JOHNSTON of South Carolina. I move that the Senate insist upon its amendments, agree to the request of the House for a conference, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Vice President appointed Mr. FREAR, Mr. LONG, and Mr. DWORSHAK conferees on the part of the Senate.

INTERNAL-REVENUE TAXES ON COCONUT OIL FROM TRUST TERRITORY OF PACIFIC ISLANDS

The VICE PRESIDENT laid before the Senate a message from the House of Representatives announcing its dis-

agreement to the amendments of the Senate to the bill (H. R. 8992) to eliminate the additional internal-revenue taxes on coconut oil coming from the Trust Territory of the Pacific Islands, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. GEORGE. I move that the Senate insist upon its amendments, agree to the request of the House for a conference, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Vice President appointed Mr. GEORGE, Mr. CONNALLY, Mr. BYRD, Mr. MILLIKIN, and Mr. TAFT conferees on the part of the Senate.

PERIODIC CENSUS OF GOVERNMENTS—CONFERENCE REPORT

Mr. JOHNSTON of South Carolina. Mr. President, I submit a conference report on the bill (H. R. 7265) to provide for the conduct of a periodic census of governments, and I ask unanimous consent for its immediate consideration.

The VICE PRESIDENT. The report will be read for the information of the Senate.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 7265) to provide for the conduct of a periodic census of governments, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment.

OLIN D. JOHNSTON,
HUBERT H. HUMPHREY,
WILLIAM LANGER,

Managers on the Part of the Senate.

TOM MURRAY,
GEORGE P. MILLER,
EDWARD H. REES,

Managers on the Part of the House.

The VICE PRESIDENT. Is there objection to the present consideration of the conference report?

There being no objection, the report was considered and agreed to.

REVENUE ACT OF 1950

The Senate resumed the consideration of the bill (H. R. 8920) to reduce excise taxes, and for other purposes.

Mr. LEHMAN. Mr. President, ever since the end of World War I, during all the period between the end of that war and the present time, the people of the United States have felt that if we should ever confront another great national emergency such as the last one, we would pay on a current basis as large a part of the cost of that emergency as would be possible. Today we are advised that we confront a deficit this current fiscal year of at least \$20,000,000,000, of which sixteen and a half billion dollars are ascribable to recent new expenditures recommended by the President; the balance represents a deficit carried over from the appropriations voted some weeks ago and finally approved today. Against that deficit it is proposed that we pass a tax bill which, according to estimates by the distinguished chairman of the Finance Committee, will

House of Representatives

MONDAY, AUGUST 28, 1950

The House met at 12 o'clock noon.
Rev. E. Butler Abington, pastor, Trinity Baptist Church, Lake Charles, La., offered the following prayer:

O God, Thou who art everlasting, without beginning and without end; upon whom we all are dependent. However, Father, Thou who art in heaven we bless Thy name for every privilege and every manifestation of Thy love and mercy. Thou hast kept us, providences of God have followed us like the lovely, beautiful stream, life-giving and refreshing. All we are individually and collectively we acknowledge all that is good comes from God. We invoke Thy benedictions upon this session today of the House of Representatives of our country.

May the Lord give wisdom and strength and guidance to all these noble men. May we understand that every good and perfect gift cometh from heaven above and may we give more time and attention to the things of God, the things of heaven, the things that are eternal, those things that do not pass away.

Hear our prayer this morning and have mercy upon us as we pray in the name and for the sake of the Lord Jesus Christ. Amen.

THE JOURNAL

The Journal of the proceedings of Saturday, August 26, 1950, was read and approved.

CUSTOMS DUTIES ON ARTICLES COMING INTO THE UNITED STATES FROM THE VIRGIN ISLANDS

Mr. DOUGHTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 6343) relating to customs duties on articles coming into the United States from the Virgin Islands, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, line 7, after "duty", insert "generally."

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. RICH. Mr. Speaker, reserving the right to object, is this going to permit merchandise to come in from the Virgin Islands without duty?

Mr. DOUGHTON. This is a bill that was unanimously reported by the committee and passed by the House. This is only a minor amendment and does not change the general legislation in any way.

Mr. RICH. Since we are the guardians of the Virgin Islands there may be some merit to this. But they are talking about reducing the tariffs by the reciprocal trade agreements route on

things coming in from foreign countries, thus putting the people of this country out of business.

Mr. DOUGHTON. This amendment really limits the scope of the bill as it passed the House, I may say to the gentleman.

Mr. RICH. I hope you may do everything you can to keep the tariff-making body in the hands of the Ways and Means Committee instead of the State Department from now on. If the gentleman will do that he will be doing the country a great good.

Mr. DOUGHTON. I thank the gentleman.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

(Mr. REED of New York asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. REED of New York. Mr. Speaker, the purpose of this bill is to permit free entry of articles coming into the United States or its possessions from the Virgin Islands when such articles contain foreign materials which may be imported directly into the United States free of duty. The Senate amendment merely adds the word "generally" at the end of the bill in order to limit its application to articles which are generally free of duty, regardless of the country of origin. The bill would not apply, therefore, in the limited area of articles given preferentially free admission, such as articles from Cuba or the Philippine Islands, for such articles would not be admitted free of duty when imported from all other countries.

EXEMPTING FROM DUTY SOUND RECORDINGS FOR NEWS BROADCASTS

Mr. DOUGHTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 8726) to amend the Tariff Act of 1930 to exempt from duty sound recordings for news broadcasts, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Line 6, after "States", insert "or suitable for use in reproducing sound in connection with moving-picture news reels."

Amend the title so as to read: "An act to amend the Tariff Act of 1930 to exempt from duty sound recordings for news broadcasts and in connection with moving-picture news reels."

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

(Mr. REED of New York asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. REED of New York. Mr. Speaker, the bill as passed by the House would amend the Tariff Act of 1930 by providing for the free entry of sound recordings transcribed or recorded abroad for radio or television news broadcasts in the United States. As explained at the time of original consideration of this bill by the House, the bill would merely extend treatment to sound recordings for news broadcasts similar to that accorded to dispatches sent back to the United States by news correspondents.

The Senate amendment would extend this same exemption to sound recordings transcribed or recorded abroad which are suitable for reproducing sound in connection with moving-picture news reels in the United States. A similar provision was included in H. R. 7447, the bill amending the Tariff Act of 1930, as amended, with respect to sound-recording materials for use in connection with moving-picture exhibits and news reels, but the Senate struck the provision from H. R. 7447 and added the substance of that amendment to H. R. 8726.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

AMENDING TARIFF ACT OF 1930

Mr. DOUGHTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 7447) to amend the Tariff Act of 1930, as amended, with respect to sound-recording materials for use in connection with moving-picture exhibits and news reels, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, strike out lines 10 to 19, inclusive.

Amend the title so as to read: "An act to amend the Tariff Act of 1930, as amended, with respect to sound-recording materials for use in connection with moving-picture exhibits."

(Mr. REED of New York asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. REED of New York. Mr. Speaker, the purpose of this bill is to simplify the present administration of customs collection for sound recordings by establishing a specific rate of duty per linear foot for recordings suitable for use in reproducing sound in connection with motion-picture exhibits. As passed by the House, the bill would also have provided that such recordings should enter

duty-free if suitable for use in connection with moving-picture newsreels. The Senate amended this bill by striking out the provision with respect to the duty-free entry of sound recordings for use in connection with newsreels, the substance of which has been added to another bill, H. R. 8726, which exempts from duty sound recordings for news broadcasts.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

ELIMINATING ADDITIONAL INTERNAL-REVENUE TAXES

Mr. DOUGHTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 8992) to eliminate the additional internal-revenue taxes on coconut oil coming from the Trust Territory of the Pacific Islands, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina? [After a pause.] The Chair hears none, and appoints the following conferees: Messrs DOUGHTON, COOPER, MILLS, REED of New York, and WOODRUFF.

(Mr. REED of New York asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. REED of New York. Mr. Speaker, the Senate amendment restores to the bill the language of section 2, an originally introduced, which was deleted by the House upon recommendation of the Committee on Ways and Means. It also includes amendatory language intended to comply with a recommendation of the Department of State believed to be defective in certain respects.

AMENDING TITLE 28, UNITED STATES CODE

Mr. HOBBS. Mr. Speaker, I call up the conference report on the bill (S. 1838) to amend title 28 of the United States Code relating to fees of the United States marshals, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 25, 1950.)

The SPEAKER. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

PERIODIC CENSUS OF GOVERNMENTS

Mr. MURRAY of Tennessee. Mr. Speaker, I call up the conference report on the bill (H. R. 7265) to provide for the conduct of a periodic census of govern-

ments, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 21, 1950.)

The SPEAKER. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

PERFORMANCE-RATING PLANS

Mr. MURRAY of Tennessee. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 7824) to provide for the administration of performance-rating plans for certain officers and employees of the Federal Government, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee? [After a pause.] The Chair hears none and appoints the following conferees: Messrs. MURRAY of Tennessee, DAVIS of Georgia, and REES.

ITALIAN ALIENS

Mr. WALTER. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 6804) for the relief of certain Italian aliens, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 6, strike out "Nini" and insert "Mini."

Page 1, line 7, strike out "Angela Felini" and insert "Angelina Fellini."

Page 1, line 7, strike out "Baccielli" and insert "Bacchielli."

Page 1, line 8, strike out "Caterina" and insert "Catherina."

Page 1, line 9, strike out "Ginevra" and insert "Ginevia."

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

CHOKO NISHIDA

Mr. WALTER. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 6832) for the relief of Choko Nishida, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 1, strike out all after the enacting clause down to and including "War II" in line 11 and insert: "That the provisions of the immigration laws relating to the exclusion of aliens inadmissible because of race

shall not hereafter apply to Choko Nishida, the Japanese fiancée of Clifford Mr. Sergeant, a citizen of the United States and an honorably discharged veteran of World War II, and that Choko Nishida may be eligible for a visa as a nonimmigrant temporary visitor for a period of 3 months."

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

TADEUSZ HERKA

Mr. WALTER. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 8219) for the relief of Tadeusz Herka, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert: "That for the purposes of the immigration and naturalization laws, Tadeusz Herka shall be held and considered to have been lawfully admitted into the United States for permanent residence as of the date of his last entry into the United States, upon the payment of the required visa fee and head tax. Upon the enactment of this act, the Secretary of State shall instruct the proper quota-control officer to deduct one number from the appropriate quota for the first year that such quota is available."

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

PERMISSION TO ADDRESS THE HOUSE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

BRITISH AID TO RUSSIA

Mr. ZABLOCKI. Mr. Speaker, I know it is not the policy of our country to dictate or delve into the sovereign rights of other countries; but there is no doubt that many of us, upon reading Churchill's charges that a British factory is turning out tools for the Soviets, became alarmed and bewildered. Just what is this? It may be politics—but I believe in the old adage: "Where there is smoke, there is fire."

It is unbelievable that, in these critical times, an ally receiving economic and military aid would deliberately permit delivery of strategic materials to the U. S. S. R. Our boys in Korea, our young men called to service, surely must wonder what a world we are living in. The Kremlin knows no compromise, respects no agreements, violates treaties left and right, instigates sorties in the various ominous areas of this troubled world; and the British Ministry of Supply must shamefully confess that manufacturers

conferees in eliminating this proviso is not to be taken as a rejection of the proposal on principle. The action of the conferees in this regard was based on a feeling that, first, this proviso was in terms too broad in its application; and, second, that it referred to a matter which had nothing to do with national security, and which should more properly be treated in the bill to revise the immigration and naturalization laws, which is pending before the Judiciary Committee, and which it is expected will get action early in the next session of the Congress.

The conferees eliminated a provision which was in the Senate bill, requiring the conducting of neighborhood examinations of all applicants for naturalization. However, the conferees left in the bill authority for the employment of necessary examiners and other personnel to conduct such investigations, and left it to the discretion of the Immigration and Naturalization Service whether such examination should be conducted in any or all cases.

The portion of the bill on which the conference committee did the largest rewriting job was title 2, the Emergency Detention Act provisions. This title was reworded in many respects, with a view particularly to strengthening its constitutionality. As reported from the conference, this title stresses throughout that what is contemplated is not penal servitude, but only civil detention. As an example of how this distinction has been stressed, it may be noted that the conferees wrote in a provision that no person detained under the provisions of this title is to be confined in company with any person who are confined pursuant to the criminal laws of the United States or of any State. It is also provided in the conference version of this title that no person detained thereunder shall be required or permitted to perform any forced labor, or any tasks at all which are not reasonably associated with his own comfort and well-being. This provision entirely negatives the conception of penal servitude.

The conferees struck out a provision limiting the effect of this title to 3 years from the date of its enactment, and thus the conference bill would make this title permanent legislation. In this connection, it should be pointed out that this is stand-by legislation only; it is a weapon ready at hand, to be used if needed, but only if needed. In time of war, invasion, or insurrection in aid of a foreign power, it is not to be doubted that some form of detention of dangerous aliens and others constituting security risks to the United States would be put into effect. This bill provides a blueprint for such detention, with all of the procedural safeguards, and all of the guaranties of due process, and all of the protections of civil liberties, which could be written into such a plan.

In closing, let me point out that while the conferees have stricken out section 115, with respect to appointment of subcommittees to carry out supervision over the operations under this bill, this action of the conferees does not mean that the conferees rejected the idea of congressional supervision. The section in question was stricken because it required the appointment of subcommittees; and since the authority already rests in committees of the Congress, under the Legislative Reorganization Act, to carry out supervision over the activities of agencies in the executive branch of the Government which are within the jurisdiction of such committees, it was felt that this language, if it had any effect, might have only the effect of narrowing the authority for such supervision, with respect to this bill, to subcommittees, rather than leaving such authority in the full committee in each House.

There was also the question of whether supervision over the operations of this title should, in the House of Representatives, be through the Judiciary Committee of the

House, or through the Un-American Activities Committee. This was a matter with respect to which the Senate conferees did not wish to exercise judgment, and it was felt that under all the circumstances, the simplest and most desirable course of action was simply to eliminate this section entirely.

I have not attempted to analyze this bill in detail. I have only, as I promised my colleagues I would, touched upon a few of the high spots. In closing, I desire only to reaffirm my sincere conviction that this legislation is constitutional in all respects, and that it is, in all respects, both necessary and desirable from the standpoint of our national security. All of the findings in this legislation are amply supported by the facts, and by the record. This Nation faces, today, such a clear and present danger from the world Communist conspiracy that it is not only the right, but the duty, of those who legislate for the Nation, to take the steps necessary to provide protection against the threat. Enactment of this legislation, Mr. President, will be a major blow at the world Communist conspiracy; and the Junior Senator from Maryland will cast his vote for this conference report with pride, and with the conviction that he is acting for the best interests of the United States of America.

The VICE PRESIDENT. The question is on agreeing to the conference report.

Mr. FERGUSON and other Senators asked for the yeas and nays, and they were ordered.

Mr. MCCARRAN. I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Butler	Ives	Martin
Cain	Johnson, Colo.	Millikin
Chapman	Johnson, Tex.	Morse
Connally	Johnston, S. C.	Mundt
Cordon	Kefauver	Neely
Darby	Kerr	O'Connor
Donnell	Kilgore	Russell
Dworshak	Knowland	Saltonstall
Eaton	Langer	Schaeppel
Ellender	Leahy	Smith, Maine
Ferguson	Lehman	Stennis
Frear	Long	Thye
Fulbright	Lucas	Tobey
Graham	McCarran	Watkins
Green	McClellan	Wherry
Harney	McFarland	Wiley
Hendrickson	McKellar	Williams
Hill	McMahon	Young
Hoey	Magnuson	
Holland	Malone	

The VICE PRESIDENT. A quorum is present. The question is on agreeing to the conference report on H. R. 9490. The yeas and nays have been ordered. As many as favor the conference report will vote "yea" as their names are called. Those opposed will vote "nay." The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. O'CONOR (when Mr. TYDINGS' name was called). I announce that the senior Senator from Maryland [Mr. TYDINGS] is absent on public business. If present he would vote "yea."

The roll call was concluded.

Mr. LUCAS. I announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from South Carolina [Mr. MAYBANK], the Senator from Florida [Mr. PEPPER], and the Senator from Utah [Mr. THOMAS] are absent by leave of the Senate.

The Senator from Connecticut [Mr. BENTON], the Senator from Arizona [Mr.

HAYDEN], and the Senator from Pennsylvania [Mr. MYERS] are absent on public business.

The Senators from Virginia [Mr. BYRD and Mr. ROBERTSON], the Senator from New Mexico [Mr. CHAVEZ], the Senator from Illinois [Mr. DOUGLAS], the Senator from Iowa [Mr. GILLETTE], the Senator from Georgia [Mr. GEORGE], the Senator from Minnesota [Mr. HUMPHREY], the Senators from Wyoming [Mr. HUNT and Mr. O'MAHONEY], the Senator from Montana [Mr. MURRAY], and the Senator from Oklahoma [Mr. THOMAS] are unavoidably absent.

The Senator from California [Mr. DOWNEY] is necessarily absent.

The Senator from Mississippi [Mr. EASTLAND] is absent because of illness.

The Senator from Alabama [Mr. SPARKMAN] is absent by leave of the Senate on official business, as a representative of the United States to the fifth session of the General Assembly of the United Nations.

The Senator from Idaho [Mr. TAYLOR] is absent because of illness in his family.

The Senator from Kentucky [Mr. WITHERS] is absent on official business.

I announce that if present and voting, the Senators from New Mexico [Mr. ANDERSON and Mr. CHAVEZ], the Senator from Connecticut [Mr. BENTON], the Senators from Virginia [Mr. BYRD and Mr. ROBERTSON], the Senator from Mississippi [Mr. EASTLAND], the Senator from Georgia [Mr. GEORGE], the Senator from Iowa [Mr. GILLETTE], the Senators from Wyoming [Mr. HUNT] and Mr. O'MAHONEY], the Senator from South Carolina [Mr. MAYBANK], the Senator from Pennsylvania [Mr. MYERS], the Senator from Alabama [Mr. SPARKMAN], the Senator from Oklahoma [Mr. THOMAS], and the Senator from Utah [Mr. THOMAS] would vote "yea."

I announce further that on this vote the Senator from Arizona [Mr. HAYDEN] is paired with the Senator from Montana [Mr. MURRAY]. If present and voting, the Senator from Arizona would vote "yea," and the Senator from Montana would vote "nay."

Mr. SALTONSTALL. I announce that the Senator from Vermont [Mr. Aiken], the Senator from Iowa [Mr. HICKENLOOPER], the Senator from Missouri [Mr. KEM], and the Senator from Michigan [Mr. VANDENBERG] are absent by leave of the Senate.

The Senator from Vermont [Mr. FLANDERS] is absent by leave of the Senate on official business as a temporary alternate Governor of the World Bank.

The Senator from Maine [Mr. BREWSTER] and the Senator from New Jersey [Mr. SMITH] are absent by leave of the Senate as representatives of the American group to the Interparliamentary Union.

The Senator from New Hampshire [Mr. BRIDGES] is absent because of illness.

The junior Senator from Ohio [Mr. BRICKER], the junior and senior Senators from Indiana [Mr. CAPEHART and Mr. JENNER], the Senator from Wisconsin [Mr. MCCARTHY], and the senior Senator from Ohio [Mr. TAFT] are necessarily absent.

The Senator from Massachusetts [Mr. LODGE] is absent by leave of the Senate on official business as a representative of the United States to the fifth session of the General Assembly of the United Nations.

If present and voting the Senator from Maine [Mr. BREWSTER], the senior and junior Senators from Ohio [Mr. TAFT and Mr. BRICKER], and the Senator from New Hampshire [Mr. BRIDGES], the senior and junior Senators from Indiana [Mr. JENNER and Mr. CAPEHART], the Senator from Iowa [Mr. HICKENLOOPER], the Senator from Missouri [Mr. KEM], the Senator from Wisconsin [Mr. MCCARTHY], the Senator from New Jersey [Mr. SMITH], and the Senator from Michigan [Mr. VANDENBERG] would each vote "yea."

The result was announced—yeas 51, nays 7, as follows:

YEAS—51

Butler	Holland	Millikin
Cain	Ives	Morse
Chapman	Johnson, Colo.	Mundt
Connally	Johnson, Tex.	Neely
Cordon	Johnston, S. C.	O'Connor
Darby	Kerr	Russell
Donnell	Knowland	Saltonstall
Dworshak	Long	Schoeppel
Ecton	Lucas	Smith, Maine
Ellender	McCarran	Stennis
Ferguson	McClellan	Thye
Frear	McFarland	Tobey
Fulbright	McKellar	Watkins
Gurney	McMahon	Wherry
Hendrickson	Magnuson	Wiley
Hill	Malone	Williams
Hoey	Martin	Young

NAYS—7

Graham	Kilgore	Lehman
Green	Langer	
Kefauver	Leahy	

NOT VOTING—38

Aiken	George	O'Mahoney
Anderson	Gillette	Pepper
Benton	Hayden	Robertson
Brewster	Hickenlooper	Smith, N. J.
Bricker	Humphrey	Sparkman
Bridges	Hunt	Taft
Byrd	Jenner	Taylor
Capehart	Kem	Thomas, Okla.
Chavez	Lodge	Thomas, Utah
Douglas	McCarthy	Tydings
Downey	Maybank	Vandenberg
Eastland	Murray	Withers
Flanders	Myers	

So the conference report on H. R. 9490 was agreed to.

PROHIBITION OF TRANSPORTATION OF GAMBLING DEVICES IN INTERSTATE AND FOREIGN COMMERCE—CONFERENCE REPORT

Mr. JOHNSON of Colorado. Mr. President, I move that the Senate proceed to consider the conference report on Senate bill 3357.

The VICE PRESIDENT. The Senator from Colorado moves that the Senate proceed to consider the conference report on Senate bill 3357, which has heretofore been under consideration.

The motion was agreed to, and the Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3357) to prohibit the transportation of gambling devices in interstate and foreign commerce.

The VICE PRESIDENT. The question is on agreeing to the conference report.

Mr. MAGNUSON and Mr. MALONE addressed the Chair.

The VICE PRESIDENT. The Senator from Colorado [Mr. JOHNSON] has the floor.

Mr. MALONE. Mr. President, a point of order.

The VICE PRESIDENT. The Senator will state it.

Mr. MALONE. Was it not understood that by unanimous consent the Senator from Nevada should have the floor when action had been taken on the conference report?

The VICE PRESIDENT. No; it was not. All the proceedings in regard to the conference report heretofore were nullified. The Senator from Nevada will be recognized at the proper time.

Mr. MAGNUSON. Mr. President, will the Senator from Colorado yield?

Mr. JOHNSON of Colorado. I yield.

INTERNATIONAL CONVENTION FOR NORTHWEST ATLANTIC FISHERIES

Mr. MAGNUSON. Mr. President, without displacing the business before the Senate, I ask that the Chair lay before the Senate the amendments of the House to the bill 2801, the North Atlantic Fisheries Convention.

INTERNATIONAL CONVENTION FOR NORTHWEST ATLANTIC FISHERIES

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 2801) to give effect to the International Convention for the Northwest Atlantic Fisheries, signed at Washington under date of February 8, 1949, and for other purposes, which were, on page 7, after line 2, insert:

(d) Nothing in this act shall be construed to limit or to add to the authority of the individual States to exercise their existing sovereignty within the presently defined limits of the territorial waters of the respective States.

On page 8, line 3, strike out all after "court" down to and including "determine" in line 5.

Mr. MAGNUSON. I move that the Senate concur in the amendments of the House. It is a matter in which all New England Senators have been interested. The House amendments provide that the various States may regulate those engaged in the fishing industry when there is a violation of the terms of the treaty.

Mr. SALTONSTALL. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. SALTONSTALL. I have taken the matter up with the fishing interests in my area and I understand they are fully in accord with the House amendments.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Washington that the Senate concur in the House amendments. The motion was agreed to.

ADMINISTRATION OF PERFORMANCE-RATING PLANS FOR CERTAIN FEDERAL OFFICERS AND EMPLOYEES—CONFERENCE REPORT

Mr. MALONE obtained the floor.

Mr. FREAR. Mr. President, will the Senator yield to me?

The VICE PRESIDENT. Does the Senator from Nevada yield to the Senator from Delaware?

Mr. MALONE. I yield, Mr. President, with the understanding that I do not lose the floor thereby.

The VICE PRESIDENT. By unanimous consent the Senator from Nevada may yield to the Senator from Delaware without losing the floor. Is there objection? The Chair hears none.

Mr. FREAR. Mr. President, I submit a conference report on the bill (H. R. 7824) to provide for the administration of performance-rating plans for certain officers and employees of the Federal Government, and for other purposes, and I ask unanimous consent for its present consideration.

The VICE PRESIDENT. The report will be read for the information of the Senate.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7824) to provide for the administration of performance-rating plans for certain officers and employees of the Federal Government, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, and 4, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: On page 5, line 10, of the House engrossed bill insert after the period the following:

"If an officer or employee with a current performance rating of satisfactory has not requested and obtained a review of such rating as provided in subsection (a), such officer or employee, upon written appeal to the chairman of the appropriate board of review established under subsection (b), shall be entitled, as a matter of right, to a hearing and decision on the merits of the appealed rating."

And the Senate agree to the same.

J. ALLEN FREAR, Jr.,

RUSSELL B. LONG,

HENRY C. DWORSHAK,

Managers on the Part of the Senate.

TOM MURRAY,

JAMES O. DAVIS,

EDWARD H. REED,

Managers on the Part of the House.

The VICE PRESIDENT. Is there objection to the present consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

Mr. FREAR. Mr. President, the Senate Post Office and Civil Service Committee has made an exhaustive study of the so-called efficiency rating plan now in effect in the executive branch of the Government. Extensive hearings were held during the Seventy-ninth, Eightieth, and Eighty-first Congresses, and several attempts have been made to streamline the present system.

H. R. 7824 is the culmination of all these studies and is, in our opinion, not only a very great timesaver but will eliminate a great deal of the expense required to investigate numerous appeals cases.

A suggestion was made by the conference committee to require the rating officer to set forth in writing, in detail, wherein the performance of an individual merited an outstanding rating. This would be approved by the agency head

or his designated representative. It was the opinion of the majority of the conferees that such an amendment would greatly reduce the number of employees selected for this outstanding rating and would indirectly also reduce the number of appeals from the satisfactory rating to the outstanding rating. It was felt, however, that since the inclusion of this amendment would add new material and although it was the sense of the conference committee that this amendment be made a part of the bill, the amendment was not adopted.

The VICE PRESIDENT. The question is on agreeing to the conference report.

The report was agreed to.

Mr. LONG. Mr. President, will the Senator from Nevada yield to me for a brief observation?

Mr. MALONE. I yield to the Senator from Louisiana if I do not lose the floor by yielding.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. LONG. Mr. President, with reference to the conference report about which the Senator from Delaware just spoke, I should like to mention that the Classification Act for the Federal service by this report is changed in several respects. The highest rating would be "outstanding," and it was thought by the conferees that there should be a much smaller percentage of persons rated as outstanding under the new classification than are presently rated as "excellent" by the present standards.

The junior Senator from Louisiana offered an amendment to attempt to see to it that the intention of the bill would be carried out by requiring that a classifying officer should have to set forth in detail in writing the reasons why an employee should be rated "outstanding," and that the "outstanding" rating should not be effective until it had been approved by the agency head or his designated representative.

The conference generally agreed to the idea, but because it might have been in conflict with the House rules that amendment was not written in conference, it being understood that the Civil Service Commission could probably accomplish the same results by regulations promulgated by it.

~~LT. COL. CHARLES J. TREES~~

Mr. McCARRAN. Mr. President, will the Senator from Nevada yield?

Mr. MALONE. I yield to the Senator from Nevada with the understanding that I do not lose the floor thereby.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. McCARRAN. I ask the Chair to lay before the Senate a message from the House of Representatives on House bill 5244.

The VICE PRESIDENT laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H. R. 5244) for the relief of Lt. Col. Charles J. Trees, Army of the United States, and requesting a conference with the Senate on the dis-

agreeing votes of the two Houses thereon.

Mr. McCARRAN. Mr. President, on July 27, 1950, the House passed H. R. 5244, for the relief of Lt. Col. Charles J. Trees. The bill would have conferred jurisdiction on the United States District Court for the Southern District of Indiana to hear, determine, and render judgment upon the claim of Colonel Trees. Upon referral to the Senate Committee on the Judiciary, the bill was amended to provide for an outright award of approximately \$21,000 to the claimant and the Senate concurred in the action of the Judiciary Committee on September 13, 1950, and passed the bill as recommended by the committee. On September 15, 1950, the House disagreed to the Senate amendments, requested a conference and appointed conferees.

Mr. President, I move that the Senate insist on its amendments, agree to the request of the House for a conference thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Vice President appointed Mr. EASTLAND, Mr. KEFAUVER, and Mr. JENNER conferees on the part of the Senate.

The VICE PRESIDENT. The Senator from Nevada is recognized.

Mr. MUNDT. Mr. President—

Mr. MALONE. I yield to the distinguished Senator from South Dakota if I do not thereby lose the floor.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

TRIBUTE TO SENATOR GURNEY

Mr. MUNDT. Mr. President, late yesterday afternoon, while the Senator from South Dakota was detained at another meeting, a number of Senators engaged in some very delightful colloquies concerning my distinguished colleague the senior Senator from South Dakota [Mr. GURNEY], and in the nature of farewell statements they wished him well and commented upon his splendid work which he is about to terminate in the United States Senate. The junior Senator from South Dakota regrets that he was not in the Chamber at that time and wishes now to associate himself with all those friendly and complimentary tributes which were so well merited by his senior colleague and which were so generally extended by Members of the Senate.

The junior Senator from South Dakota can say with complete conviction that he is confident that no Member of the United States Senate has ever had a more cooperative or friendly colleague to work with than has the junior Senator from South Dakota in the 2 years that he has been privileged to be associated in this body with Senator CHAN GURNEY.

I recall that it was in 1936, at a time when the Democrats were riding herd in South Dakota with a bright set of spurs and a heavy whip, that Senator GURNEY was then engaged in the oil business, in Yankton and in Sioux Falls, S. Dak.; and the present junior Senator from South Dakota was then peacefully engaged as a college professor and in the farm-management and investment business in his home town of Madison, S.

Dak. Both of us began campaigning for election to Congress, the senior Senator from South Dakota for the Senate, and I for the House of Representatives. Both of us were defeated by our Democratic opponents in that election.

In 1938 we were elected, and both of us have served in the Congress ever since.

Mr. President, it is with a real sense of regret and remorse that I find my colleague about to move into some other area of activity, so that the happy, friendly, and cooperative relationship which I have enjoyed with him in Congress for some 12 years is about to be brought to an end.

The senior Senator from South Dakota, Mr. President, has been able to learn much better than his junior colleague the importance of the axiom that silence is a virtue. He has made himself a great many friends on both sides of the aisle by his very careful devotion to duty in this body. He has made few speeches but he has worked hard and effectively for State and Nation.

The junior Senator from South Dakota has looked with pleasure on certain newspaper reports that perhaps the public career of his colleague has not come to an end, and certainly wishes to join with other Senators in extending to Senator CHAN GURNEY, grand fellow that he is, the best of luck, in whatever lies before him.

TEMPORARY FUNDS FOR INTERNATIONAL CHILDREN'S WELFARE WORK

Mr. KEFAUVER. Mr. President, will the Senator yield?

Mr. MALONE. I shall be very happy to yield to the distinguished Senator from Tennessee, provided I do not thereby lose the floor.

The VICE PRESIDENT. Without objection, it is so ordered; and the Senator from Tennessee is recognized.

Mr. KEFAUVER. Mr. President, in connection with the senior Senator from Wisconsin [Mr. WILEY], I wish to ask unanimous consent for the immediate consideration of Senate Joint Resolution 206, which would authorize the Reconstruction Finance Corporation to advance funds for international children's welfare work pending the making of the appropriation authorized by title V of the Foreign Economic Assistance Act of 1950.

The joint resolution would authorize the Reconstruction Finance Corporation to loan sums not to exceed \$10,000,000 for that purpose, pending the making of the regular appropriation, which has been authorized.

I understand that the matter has been passed on by the Senate several times. The passage of this joint resolution will enable this organization to carry on its work until the regular appropriation funds are finally made available.

The VICE PRESIDENT. The Senator will have to ask unanimous consent that the pending business be temporarily laid aside for the consideration of the joint resolution.

Mr. KEFAUVER. Mr. President, I ask such unanimous consent.

The VICE PRESIDENT. Is there objection?

Mr. JOHNSON of Colorado. Mr. President, reserving the right to object, will that take the pending business off the floor?

The VICE PRESIDENT. No; it will not, except temporarily.

The joint resolution will be read, for the information of the Senate.

The joint resolution (S. J. Res. 206) authorizing the Reconstruction Finance Corporation to advance funds for international children's welfare work pending the making of the appropriation authorized by title V of the Foreign Economic Assistance Act of 1950, introduced by Mr. WILEY, for himself, Mr. CONNALLY, Mr. GEORGE, Mr. McMAHON, Mr. O'MAHONEY, Mr. HUMPHREY, Mr. TAFT, Mr. BRIDGES, Mr. SALTONSTALL, and Mr. SMITH of New Jersey, was read, as follows:

Resolved, etc., That, notwithstanding the provisions of any other law, the Reconstruction Finance Corporation is authorized and directed, until such time as an appropriation shall be made pursuant to title V of the Foreign Economic Assistance Act of 1950, to make advances not to exceed in the aggregate \$10,000,000 to carry out the provisions of such title, in such manner, at such time, and in such amounts as the President shall determine, and no interest shall be charged on advances made by the Treasury to the Reconstruction Finance Corporation for this purpose. The Reconstruction Finance Corporation shall be repaid without interest for advances made by it hereunder, from funds hereafter appropriated for the purposes of such title.

The VICE PRESIDENT. Is there objection to the request of the Senator from Tennessee [Mr. KEFAUVER] that the pending business be temporarily laid aside, and that the Senate proceed to the consideration of the joint resolution?

Mr. WHERRY. Mr. President, I am not going to object to the request for the immediate consideration of the joint resolution; but I should like to have the distinguished Senator from Tennessee or the distinguished Senator from Wisconsin make a statement about the joint resolution, so that the Members of the Senate will be advised in regard to what provisions it contains.

Mr. WILEY. Mr. President, if the Senator from Nevada will yield, I shall be very happy to give a brief explanation of the joint resolution.

Mr. MALONE. Mr. President, I shall be happy to yield, if I do not thereby lose the floor.

The VICE PRESIDENT. The Senator from Nevada has yielded to the Senator from Tennessee for a purpose obviously known to the Senator from Nevada; and the Senator from Nevada is temporarily taken off the floor while the other matter is under consideration. Therefore, it is not necessary for him to yield.

Mr. WILEY. Mr. President, yesterday I introduced Senate Joint Resolution 206, by request. It appears on the face of the joint resolution itself that the Senator from Texas [Mr. CONNALLY], the Senator from Georgia [Mr. GEORGE], the Senator from Connecticut [Mr. McMAHON], the Senator from Wyoming [Mr. O'MAHONEY], the Senator from Minnesota [Mr. HUMPHREY], the Senator from Ohio [Mr. TAFT], the Senator from New

Hampshire [Mr. BRIDGES], the Senator from Massachusetts [Mr. SALTONSTALL], and the Senator from New Jersey [Mr. SMITH] have joined with me in sponsoring the introduction of the joint resolution.

Mr. President, of the \$100,000,000 originally authorized for the International Children's Fund (Public Law 472), \$75,000,000 had been appropriated and fully matched by other Government contributions as of June 30, 1950. This year the Senate recommended extension of the authorization for \$25,000,000, but the conferees reduced the figure to \$15,000,000, and gave the President wide discretionary powers in the use of this money. [Public Law 535.]

The Bureau of the Budget and the Department of State requested \$15,000,000 for international children's welfare work, and this figure in turn was cut to \$12,500,000 by the Senate Appropriations Committee, with a proviso that the money should be available only for the International Children's Emergency Fund, since the fund was the only existing organization which was justified before the committee.

This appropriation was approved, first, without a single dissenting vote by the Senate, and, second, on a ye-and-nay vote was specifically exempter from the 10-percent cut across the board. The House conferees opposed the proviso; and as a result the Senate-House conference on the omnibus appropriation bill, instead of deleting the proviso, completely eliminated the provision for international children's welfare work.

At the request of the Senate and the Secretary of State, the Senate Appropriations Committee restored the appropriation of \$12,500,000 in the supplemental appropriation bill. This item was again supported without opposition on the Senate floor, but was eliminated in the conference.

The only way in which this country can now meet its commitment to match the contributions of other governments for this program will be for the Reconstruction Finance Corporation to advance funds for international children's welfare work, pending the making of the appropriation authorized by title V of the Foreign Economic Assistance Act of 1950.

I wish to say that the value of this program can be stated succinctly as follows:

In less than 3 years of operation the fund has:

(a) Provided supplementary feeding, according to its resources, for 5,000,000 to 8,000,000 children daily. In 1950, UNICEF lifted 150,000,000 pounds of dried skim milk from United States surplus stocks at a nominal price, and is prepared to utilize other surpluses through noncompetitive channels, such as school lunch programs, hospitals, orphanages, and so forth, if the United States appropriation is continued.

(b) In cooperation with the Scandinavian Relief Societies, has tested and vaccinated, when necessary, more than 30,000,000 children against tuberculosis.

(c) In cooperation with the World Health Organization, it is rendering medical assistance to some millions of

children, in underdeveloped countries against syphilis, yaws, and malaria.

(d) Supplied raw materials to be processed into children's shoes, coats, and cloth for 6,000,000 children.

(e) Provided milk-processing equipment essential to the establishment of safe milk standards for children in eight countries in Europe.

(f) Trained hundreds of doctors, nurses, and social workers in practical problems of child care and welfare.

(g) The fund is the only United Nations program which had already distributed supplies in Korea prior to the invasion, and it is now stockpiling relief supplies in cooperation with the unified command to provide additional assistance as soon as conditions permit.

FINANCIAL RESOURCES

As a commodity supply operation, UNICEF receives no support from the annual assessment to the United Nations, but is financed by voluntary contributions from governments, persons, and organizations. The United States stimulates these contributions from other governments by matching them on a 72-28 percent ratio, and the total value of these government contributions is in turn matched by the recipient countries. Thus, over a period of 3 years, the fund has raised more than \$215,000,000 for special assistance to children, of which United States has contributed about 35 percent.

At present, UNICEF has less than \$200,000 for new allocations; and unless new resources are made available immediately, supplies for emergency programs (a) for refugees in Korea, the Middle East, Pakistan, and India, and (b) Greece and Yugoslavia will have to cease at the end of this month; and the supply line for the long-term programs in southeast Asia and Latin America will end as of the first of the new year.

Let me also say that the International Children's Emergency Fund was established by the United Nations General Assembly in December 1946, principally for the purpose of providing relief and rehabilitation for children of countries which had been the victims of aggression, and member states and individuals were invited to contribute to the fund.

In the Foreign Relief Act of May 1947, Congress authorized American contributions of up to \$40,000,000 for the fund, provided that after the first \$15,000,000, American contributions could not exceed 57 percent of the total budget.

Title II of the Foreign Economic Assistance Act of 1948 continued the availability of the unexpended portion of these funds to June 30, 1949, and authorized an additional appropriation of \$60,000,000, thus increasing the total amount authorized for American contributions to \$100,000,000. A proviso was inserted that American contributions could not exceed 72 percent of all contributions made after May 31, 1947.

LEGISLATIVE ACTION

Contributions were not made to the full extent authorized and, as the unexpended balance was to have reverted to the Treasury on June 30, 1949, the matter again came before the committee in the Eighty-first Congress. The House on

PROVIDING FOR THE ADMINISTRATION OF PERFORMANCE-RATING PLANS FOR CERTAIN OFFICERS AND EMPLOYEES OF THE FEDERAL GOVERNMENT

SEPTEMBER 21, 1950.—Ordered to be printed

Mr. MURRAY of Tennessee, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H. R. 7824]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7824) to provide for the administration of performance-rating plans for certain officers and employes of the Federal Government, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, and 4, and agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment as follows:

On page 5, line 10, of the House engrossed bill insert after the period the following: *If an officer or employee with a current performance rating of satisfactory has not requested and obtained a review of such rating as provided in subsection (a), such officer or employee, upon written appeal to the chairman of the appropriate board of review established under subsection (b), shall be entitled, as a matter of right, to a hearing and decision on the merits of the appealed rating.*

And the Senate agree to the same.

TOM MURRAY,
JAMES C. DAVIS,
EDWARD H. REES,

Managers on the Part of the House.

J. ALLEN FREAR, Jr.,
RUSSELL B. LONG,
HENRY C. DWORSHAK,

Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7824) to provide for the administration of performance-rating plans for certain officers and employees of the Federal Government, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

Amendment No. 1: This amendment is of a clerical nature, and is made necessary by the recession on the part of the House on amendment No. 2. The House recedes.

Amendment No. 2: Section 2 (b) of the House bill excluded 10 categories of employees from the operation of the bill. The Senate amendment adds an eleventh category consisting of employees outside the continental United States who are paid in accordance with local native prevailing wage rates for the area in which they are employed. The House recedes.

Amendment No. 3: Section 6 of the House bill required that each performance-rating plan should provide for ratings of "excellent," "satisfactory," and "unsatisfactory." The Senate amendment substitutes for the rating of "excellent" the rating of "outstanding." The conference committee believes that the Senate amendment will assist in carrying out the intent of the bill to reserve the highest rating for a comparatively few employees whose performance deserves special recognition. The House recedes.

Amendment No. 4: This is a clarifying amendment to make it clear that when several boards of review are established in one department, their jurisdiction will be on the same level and an appellant would not have successive appeals from one board to another board. The House recedes.

Amendment No. 5: Section 7 (c) of the House bill provided that, in addition to the performance-rating appeal provided in subsection (a), any officer or employee with a current performance rating of less than "excellent" was entitled to appeal his rating to the appropriate board of review established under section 7 (b). The Senate amendment provides for such an appeal only if the current performance rating is less than "satisfactory." The House recedes with an amendment adding to section 7 (c) a new sentence which provides that an officer or employee with a current performance rating of "satisfactory" shall, if he so elects, have the right to an appeal under subsection (b), in lieu of a review of his performance rating under subsection (a).

TOM MURRAY,
JAMES C. DAVIS,
EDWARD H. REES,

Managers on the Part of the House.

In the days that lie ahead we will have to spend many more billions of dollars for building up our military might. Many men will have to go into the armed services and we here at home will have to pay more taxes and buy fewer civilian goods. We will have to do this to inspire respect—and, if necessary, fear—in those who must be held in check if America and the world are ever to enjoy freedom, security, and peace. In accepting these sacrifices and inconveniences, I think it is important that we remember what makes them necessary.

In an election year, it is natural that some people should try to place all the blame on the Democratic Party, and others should try to place all the blame on the Republican Party. No doubt men of both parties have made mistakes, but neither is to blame for our present difficulties. The blame rests squarely with Communist Russia, and the insane ambition of the men in the Kremlin to dominate the world.

Russian policies are based on the doctrine that she will never be completely secure until communism is spread throughout the world, with "Mother Russia" as the dominant nation. All of her actions since the end of World War II have clearly been pointed toward that objective. Where she could annex more territory, she has done so. Where she could send her armies, she has installed totalitarian government slavishly subservient to Moscow. Where there has been poverty and discontent, she has tried to foment civil war and discord. Where none of these techniques have been effective, she has used propaganda, international bad faith, espionage, and sabotage to try to weaken the nations that still have the strength and courage to resist.

Against this ruthless, unprincipled foe, we will have to concentrate all our moral and physical resources—or perish as a free nation.

That is why I am pleading with all Americans to unite in our struggle against this common enemy. That does not mean that we must refrain from criticizing those in power. There is always room for honest criticism. But it does mean that we should always keep uppermost in our minds the most important objective—survival of the United States of America as an independent, prosperous nation of free individuals.

If we keep that objective in mind, there will still be room for plenty of honest criticism and for unlimited free discussion of political issues in the democratic tradition.

Mr. Speaker, I am asking my colleagues and all Americans to put first things first, second things second, and third things third.

First. Our deadly struggle against world communism.

Second. Criticism of mistakes, inefficiencies, and injustices in our Government.

Third. Personal political advantage.

To keep this order of things clearly in mind in public affairs will require restraint from all of us, for it is always a great temptation to put self-interest before the interest of the country as a

whole. But we must resist that temptation, for the more moderation and self-discipline we exhibit, the more chance we have of surviving in the face of the world-conquering ambitions of the madmen of the Kremlin.

SPECIAL ORDERS GRANTED

Mr. EBERHARTER asked and was given permission to address the House for 20 minutes on tomorrow, following the legislative program and any special orders heretofore entered.

Mr. O'HARA of Minnesota asked and was given permission to address the House for 1 hour on tomorrow, following any special orders heretofore entered.

ADMINISTRATION OF PERFORMANCE-RATING PLANS FOR CERTAIN OFFICERS AND EMPLOYEES OF THE FEDERAL GOVERNMENT

Mr. DAVIS of Georgia submitted the following conference report and statement on the bill (H. R. 7824) to provide for the administration of performance-rating plans for certain officers and employees of the Federal Government, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 3125)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7824) to provide for the administration of performance-rating plans for certain officers and employees of the Federal Government, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, and 4, and agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment as follows: On page 5, line 10, of the House engrossed bill insert after the period the following: "If an officer or employee with a current performance rating of satisfactory has not requested and obtained a review of such rating as provided in subsection (a), such officer or employee, upon written appeal to the chairman of the appropriate board of review established under subsection (b), shall be entitled, as a matter of right, to a hearing and decision on the merits of the appealed rating."

And the Senate agree to the same.

TOM MURRAY,
JAMES C. DAVIS,
EDWARD H. REES,

Managers on the Part of the House.

J. ALLEN FREAR, Jr.,
RUSSELL B. LONG,
HENRY C. DWORSHAK,

Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7824) to provide for the administration of performance-rating plans for certain officers and employees of the Federal Government, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

Amendment No. 1: This amendment is of a clerical nature, and is made necessary by the recession on the part of the House on amendment No. 2. The House recedes.

Amendment No. 2: Section 2 (b) of the House bill excluded 10 categories of em-

ployees from the operation of the bill. The Senate amendment adds an eleventh category consisting of employees outside the continental United States who are paid in accordance with local native prevailing wage rates for the area in which they are employed. The House recedes.

Amendment No. 3: Section 6 of the House bill required that each performance-rating plan should provide for ratings of "excellent," "satisfactory," and "unsatisfactory." The Senate amendment substitutes for the rating of "excellent" the rating of "outstanding." The conference committee believes that the Senate amendment will assist in carrying out the intent of the bill to reserve the highest rating for a comparatively few employees whose performance deserves special recognition. The House recedes.

Amendment No. 4: This is a clarifying amendment to make it clear that when several boards of review are established in one department, their jurisdiction will be on the same level and an appellant would not have successive appeals from one board to another board. The House recedes.

Amendment No. 5: Section 7 (c) of the House bill provided that, in addition to the performance-rating appeal provided in subsection (a), any officer or employee with a current performance rating of less than "excellent" was entitled to appeal his rating to the appropriate board of review established under section 7 (b). The Senate amendment provides for such an appeal only if the current performance rating is less than "satisfactory." The House recedes with an amendment adding to section 7 (c) a new sentence which provides that an officer or employee with a current performance rating of "satisfactory" shall, if he so elects, have the right to an appeal under subsection (b), in lieu of a review of his performance rating under subsection (a).

TOM MURRAY,
JAMES C. DAVIS,
EDWARD H. REES,

Managers on the Part of the House.

(Mrs. ST. GEORGE asked and was given permission to extend her remarks at this point in the RECORD.)

PARCEL POST RATES

Mrs. ST. GEORGE. Mr. Speaker, amendment 33 to H. R. 9526, as written into this legislation by the House and concurred in by the other body, is an excellent amendment in that before funds appropriated to the Post Office Department may be withdrawn from the general funds of the Treasury the Postmaster General shall certify in writing that he has requested the consent of the Interstate Commerce Commission to the establishment of such rates as will result in parcel-post revenues equaling the expenditures for handling that class of mail matter.

This action has been required by law for approximately 36 years, but the Post Office Department has failed to carry out its responsibilities. Since 1946 the Post Office Department has been faced with mounting deficits. Members of the Post Office and Civil Service Committee and other Members of Congress have constantly reminded the Postmaster General of his responsibility to initiate administrative action to increase parcel-post rates. This is the first effective action that the Congress is taking to enforce the law.

This provision was included in H. R. 9526 as it passed the House, and I know that even as late as when this bill was being considered by the Senate Appro-

priation Committee the Postmaster General asked that the language be deleted, although at the same time he admitted that the law at the present time directs the Postmaster General to take the action which this provision of the Appropriation Act will require.

With the mounting postal deficit Congress has been faced with the problem of raising postal rates. On January 1, 1949, postal-rate increases amounting to \$150,000,000 were placed into effect. This year the House passed a postal-rate-increase bill of an equal amount. Previous to these rate increases there have been no rate-increase bills that anywhere near approach them either in amount of increase or complexity of rate structure.

In the Eightieth Congress a study was made of the postal-rate structure. A bill which I introduced was recommended favorably by the House Post Office and Civil Service Committee. This bill would have required more realistic recommendations from the Post Office Department with regard to postal-rate structures, and the task force on the Hoover Commission adopted the suggestions of the House Post Office and Civil Service Committee in their recommendations.

Postal-rate bill, H. R. 2945, provides that the Postmaster General establish the rates on the special services. This bill is still awaiting action in the other body. I trust that if this provision is put into effect the Postmaster General will approach his responsibility thereunder more affirmatively than he has his responsibilities to take action on parcel-post rate increases.

Under the provisions of Public Law 231, a far-reaching research and development program was established in the postal service. Part of this program is the establishment of a division to study postal rates and make recommendations to the Congress. It is rather revealing to learn that the Post Office Department has been making rate recommendations covering a rate structure collecting revenues of over a billion and a half dollars a year without any permanent unit to study these rates and their relationship to the users of the mails.

I believe that far-reaching steps have been taken in solving the postal rate problem, but they can be no more effective than the administration charged with the responsibility of carrying them out.

Mr. REES. Mr. Speaker, in my opinion, the gentlelady from New York is entitled to much credit for the work she has done on the problem of postal rate-making procedures, both in the Eightieth Congress and the present Congress.

One has but to read the Hoover Commission recommendations on postal rate revision and the recommendations of the task force to realize that she has presented the solutions and the logic from which are developing constructive changes in our postal rate-making procedures.

PERMISSION TO ADDRESS THE HOUSE

Mr. MARTIN of Massachusetts. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

LEGISLATIVE PROGRAM FOR THE REST OF THE DAY

Mr. MARTIN of Massachusetts. Mr. Speaker, I take this time to ask the acting majority leader what the program will be for the rest of the day.

Mr. PRIEST. Mr. Speaker, there are two minor conference reports in which there is unanimous agreement from the Committee on Public Lands. There are one or two resolutions from the Committee on House Administration which I understand are pretty well agreed to. Following consideration of these matters we propose to take up the bill H. R. 9219 scheduled for consideration earlier in the week. That is for the rehabilitation of the Five Civilized Tribes. There is a rule on it calling for 1 hour of general debate. I believe that is all for the remainder of the afternoon. I might say to the minority leader that consent has already been obtained to convene at 11 o'clock tomorrow morning.

Mr. MARTIN of Massachusetts. Has the gentleman heard of what action the President will take upon the so-called security bill?

Mr. PRIEST. No; the gentleman has not.

Mr. MARTIN of Massachusetts. I wish he would convey to the President our hopes he can make a decision early tomorrow.

Mr. PRIEST. I feel certain that the President will make up his mind.

The SPEAKER. The time of the gentleman from Massachusetts has expired.

PERMISSION TO ADDRESS THE HOUSE

Mr. MICHENER. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

HON. JOHN JENNINGS AND HON. SAM HOBBS

Mr. MICHENER. Mr. Speaker, only the experienced know how intimate is the relationship between members of a hard-working congressional committee. It is in the committee room that a Member demonstrates the stuff that is in him. If he is industrious, capable, courteous, and tolerant, he is sure to have the respect, confidence and affection of his colleagues.

I have served on the Committee on the Judiciary for many years with the gentleman from Alabama [Mr. HOBBS] and the gentleman from Tennessee [Mr. JENNINGS], who are retiring at the end of this session. Both meet the specifications I have just mentioned.

The gentleman from Alabama [Mr. HOBBS] has the longer service in the Congress and on the committee. When the Democrats were in power, he was my subcommittee chairman and, when the Republicans were in power—a very short time in recent years—I was his chairman. We never had any politics on our subcommittee, and I am sure under Judge HOBBS' leadership the committee has accomplished much good, and that

this is a better country because of some of the legislation sponsored and placed on the statute books through Judge HOBBS' effort. He is one of the best lawyers in the Congress. He is legally and fundamentally sound and, with this background, plus extensive practical experience as an advocate and as a judge, it is perfectly natural that he should be a legal leader in the House. Debate in the House on any profound legal question is not completed until Judge HOBBS has spoken. The rank and file of the membership usually await his arguments before reaching a final conclusion. This is as high a compliment as I could pay any member of the committee.

Judge HOBBS is retiring voluntarily because of ill health, and it is the hope of the entire membership of the House that less arduous work, more time to play, and Selma, Ala., sunshine will do the job, and that in the not too far distant future Judge HOBBS will regain his former vigor and be available for some public service for which he is so adequately and particularly qualified. Few, if any, men will be missed more when the Eighty-second Congress convenes. We all wish for SAM HOBBS every good thing in life.

There has been real grief in the House since the announcement that Judge JENNINGS, of Tennessee, is to retire. The judge occupies a unique position in our midst. Another great jurist, and I am sure a great advocate and trial lawyer, as well as one of the most effective, logical, and entertaining debaters in Congress, his profound logic is always garnished with apropos wit and humor. In other words, he knows how to make his point, and then he is blessed with the ability to present his proposition in a way that the listeners cannot forget.

As chairman and as ranking member of the Subcommittee on Claims of the Committee on the Judiciary, he has been the watchdog of the Treasury and has by his tireless work, close attention, and great legal ability saved millions of dollars for the taxpayers of the Nation.

I understand the judge is going to return to Tennessee and reenter the practice of the law. We all know he will succeed in that field, and his many warm friends—and that includes all of us—in the Congress are hoping he will later return to the work for which he is so eminently fitted and which he has so satisfactorily accomplished. Judge, we will be thinking of you down in your native Tennessee, and it will not take much imagination to envision you with your saddle horse, your hound dogs, and your fishing tackle. Whatever path you choose, here's hoping that it leads to pleasant places.

PALISADES DAM AND RESERVOIR PROJECT

Mr. PETERSON. Mr. Speaker, I call up the conference report on the bill (S. 2195) to authorize the Palisades Dam and Reservoir project, to authorize the North Side Pumping Division and related works, to provide for the disposition of reserved space in American Falls Reservoir, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The SPEAKER. The question is on the amendment.

The amendment was agreed to.

The resolution was agreed to. A motion to reconsider was laid on the table.

PRINTING OF HOUSE RULES AND MANUAL

Mr. STANLEY. Mr. Speaker, I offer a privileged resolution, House Resolution 862, for its immediate consideration.

The Clerk read as follows:

Resolved, That a revised edition of the Rules and Manual of the House of Representatives for the Eighty-second Congress be printed as a House document, and that 1,600 additional copies shall be printed and bound for the use of the House of Representatives, of which 700 copies shall be bound in leather with thumb index and delivered as may be directed by the Parliamentarian of the House for distribution to officers and Members of Congress.

Mr. RICH. Mr. Speaker, will the gentleman yield?

Mr. STANLEY. I yield.

Mr. RICH. Will this involve any additional cost?

Mr. STANLEY. This is the usual resolution that is passed at the close or recess of the Congress each year.

Mr. RICH. It does not provide for any additional copies over the customary number?

Mr. STANLEY. That is right.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ADDITIONAL COPIES OF "BACKGROUND INFORMATION ON KOREA"

Mr. STANLEY. Mr. Speaker, by direction of the Committee on House Administration, I offer a privileged resolution (H. Res. 731) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That there be printed 4,000 additional copies of the report of the Committee on Foreign Affairs entitled "Background Information on Korea," House Report No. 2495, of which 1,000 copies shall be delivered to the House document room and 3,000 copies delivered to the Committee on Foreign Affairs.

With the following committee amendments:

Line 1, strike out "four thousand" and insert "ten thousand" in lieu thereof.

Line 4, strike out "one thousand" and insert "seven thousand" in lieu thereof.

Mr. RICH. Mr. Speaker, will the gentleman explain this?

Mr. STANLEY. Mr. Speaker, this is for the printing of 10,000 additional copies of the Background Information on Korea. The Committee on Foreign Affairs has asked that this resolution be passed in order that it might have sufficient copies to meet the demand they are having for this document.

Mr. RICH. What does it say about Korea insofar as this war that we now have in Korea is concerned?

Mr. STANLEY. It is a report the gentleman has already read, House Document No. 2495. I am sure the gentleman has had a copy of it.

Mr. RICH. I may have had a copy, but why is it necessary to increase the number from 4,000 to 10,000?

Mr. STANLEY. Because of the tremendous demand for it throughout the country.

Mr. RICH. Are they going to be distributed to the Members on an equitable basis or do they all go to the committee?

Mr. STANLEY. Three thousand copies will go to the Members, and 7,000 copies will go to the document room for distribution among the Members.

Mr. RICH. For distribution or sale?

Mr. LECOMPTE. Mr. Speaker, will the gentleman yield?

Mr. STANLEY. I yield to the gentleman from Iowa.

Mr. LECOMPTE. May I call the gentleman's attention to this fact: The original resolution called for 4,000 copies. It appears that all of the copies the Committee on Foreign Affairs had have been exhausted.

Mr. STANLEY. There were 3,500 copies printed previously and they have been exhausted.

Mr. LECOMPTE. The gentleman's amendment calls for 10,000, but later in the resolution it is not stated how you dispose of the 10,000—1,000 copies for the House document room and 3,000 copies for the Committee on Foreign Affairs. That still does not dispose of the other 6,000. Does the gentleman want to offer another amendment?

Mr. STANLEY. There is on the way down from the Committee on House Administration a report stating how the copies will be distributed: 3,000 copies to go to the Committee on Foreign Affairs and 7,000 copies to go to the document room. They may be sold at 20 cents per copy.

Mr. LECOMPTE. I think that is all right, but it does not say so in the resolution.

Mr. STANLEY. If the gentleman will permit, that report is being sent down.

Mr. RICH. The ones that go to the Document Room are to be sold?

Mr. STANLEY. Yes.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. STANLEY. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. What is this report about Korea?

Mr. STANLEY. It is quite a long story. I am sure the gentleman has seen it. It consists of 74 pages.

Mr. BROWN of Ohio. Is it the Committee on Foreign Affairs or the Committee on Interstate and Foreign Commerce that makes this request?

Mr. STANLEY. The Foreign Affairs Committee.

Mr. BROWN of Ohio. When was it originally printed?

Mr. STANLEY. It was printed during this session.

Mr. BROWN of Ohio. On June 6.

Mr. STANLEY. During the session. I do not know the exact date.

Mr. BROWN of Ohio. It covers the general subject of Korea?

Mr. STANLEY. "Background Information on Korea" is the title.

Mr. BROWN of Ohio. Factual and not political? It is not one of these campaign documents, is it?

Mr. STANLEY. The gentleman might have his own views on that. I cannot answer that question.

Mr. BROWN of Ohio. I did not understand the gentleman.

Mr. STANLEY. The gentleman might have his own views on that and we might differ.

Mr. KEE. Mr. Speaker, will the gentleman yield?

Mr. STANLEY. I yield to the gentleman from West Virginia.

Mr. KEE. I will answer the gentleman's question. The report was prepared by the committee 2 days after the raid was made across the thirty-eighth parallel into South Korea and it gives a full and complete history of our entrance into Korea, why we are there, what is going on and a history of the whole trouble that exists there now.

Mr. BROWN of Ohio. Does it deal, for instance, with the action of Congress in the way of votes and all this and that?

Mr. KEE. No; nothing of that kind.

Mr. BROWN of Ohio. I have seen so much of this propaganda floating around at Government expense that I wanted to be sure.

Mr. KEE. Most of the information came from our hearings.

Mr. JUDD. Mr. Speaker, will the gentleman yield?

Mr. STANLEY. I yield to the gentleman from Minnesota.

Mr. JUDD. Is it not true that this report was originally prepared for use by the committee on foreign affairs by our own staff to give us factual information on Korea, Republicans, Democrats and everybody; because it contained so much valuable material, and the Korea affair soon developed into such a full-scale conflagration there were many requests from members and other people for the report. Hence the motion was made to make this pamphlet available to everybody as well as to the Congress. It is strictly factual material.

Mr. KEE. The original resolution provided for 4,000 copies. Now we find that the demand is so great for it that we want it increased to 10,000.

Mr. RICH. Does it contain the information that the gentleman from Minnesota sent out with reference to the Chinese and Korean situation? That was a good speech. Everybody out to read it.

Mr. MICHENER. Mr. Speaker, will the gentleman yield?

Mr. STANLEY. I yield to the gentleman from Michigan.

Mr. MICHENER. As a matter of fact, these copies are to be distributed in two ways, through the document room and through the committee. I wonder if we all understand that any document distributed through the document room is given, presumably, to the first fellow who asks for it. If they go through the folding room, then each Member gets a like number. If this report goes through the document room, the first Members there will get them, and the bulk will be controlled entirely by the

committee. If this resolution goes through, any Member wanting any of these reports better get in his order early in the document room.

Mr. RICH. The gentleman said they were going to the document room for sale at 20 cents a copy.

Mr. MICHENER. That is always true.

Mr. RICH. How can you get them out of the document room if they are going to be sold?

Mr. MICHENER. There are a certain number of them allocated for sale.

Mr. HOFFMAN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. STANLEY. I yield to the gentleman from Michigan.

Mr. HOFFMAN of Michigan. When these documents are printed, will it be unethical for a Congressman to send them out in their franked envelopes?

Mr. STANLEY. I should think if he had a request for them, that it would not be unethical.

Mr. HOFFMAN of Michigan. I could not be charged with improper lobbying if somebody asked me for a copy and I mailed it to him in a franked envelope?

Mr. STANLEY. I think the gentleman can answer that as well as I can.

Mr. HOFFMAN of Michigan. Well, I just wanted to be sure, after the experience of the activities of the Lobbying Committee.

Mr. BROWN of Ohio. Since I made my original inquiry, I have been furnished with a copy of this publication which I have not seen before. I can find nothing there except a factual report on the actions of the United Nations and others in connection with the whole Korean situation from the very time that the troops moved in.

Mr. STANLEY. I thank the gentleman.

The SPEAKER. The question is on the committee amendments.

The committee amendments were agreed to.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERFORMANCE-RATING PLANS

Mr. DAVIS of Georgia. Mr. Speaker, I call up the conference report on the bill (H. R. 7824) to provide for the administration of performance-rating plans for certain officers and employees of the Federal Government, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the statement.

Mr. DAVIS of Georgia (interrupting the reading of the statement). Mr. Speaker, I ask unanimous consent that the further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

Mr. MARTIN of Massachusetts. Reserving the right to object, Mr. Speaker,

will the gentleman explain the conference report?

Mr. DAVIS of Georgia. Mr. Speaker, the bill H. R. 7824, which is the subject of the conference report, relates to the establishment of a performance-rating system for Federal employees to replace the existing efficiency-rating system provided for in title IX of the Classification Act of 1949.

The House and Senate conferees have resolved their differences as follows: First, it was agreed that employees outside the continental limits of the United States who are paid in accordance with local native prevailing wage rates shall be excluded from the provisions of the bill; second, the highest performance rating is to be known as outstanding rather than excellent; third, any employee with a performance rating of less than satisfactory shall be entitled not only to an impartial review of his rating within his department but, upon written appeal, may also receive a review of his rating by a statutory board of review composed of one member designated by the head of the department, one member designated by the employees of the department, and a chairman designated by the Civil Service Commission; and, fourth, an employee wishing to appeal a performance rating of satisfactory may either (a) request an impartial review of such rating by his department or (b) be entitled to appeal to the independent statutory board of review and receive a hearing and decision upon the merits of his appeal.

The only other difference between the House and Senate versions of the bill was resolved by agreeing to a Senate amendment which merely perfected certain language.

It was the view of the conference committee that a performance rating of outstanding should be given only after the rating officer has set forth in writing in detail wherein the performance of any employee merits such outstanding rating. Also, the conferees believed that the head of the department or his designated representative should approve in writing the evaluation of such outstanding performance by an employee.

The conferees believe that, in order to carry out the intention of the legislation properly, the Civil Service Commission, under its rule-making authority provided in section 8 of the bill, should issue this as a part of its regulations.

The House Post Office and Civil Service Committee, under the leadership of its most able chairman, the gentleman from Tennessee, Mr. TOM MURRAY, who is necessarily absent because he is in the hospital recovering from an operation, has devoted a great deal of study to this problem. The legislation carries out recommendation 4 (e) of the Hoover Commission recommendations which stated:

The efficiency-rating system should be simplified and should be used solely to develop a better understanding between supervisors and employees.

Mr. Speaker, I ask that the House agree to the conference report on H. R. 7824.

Mr. MARTIN of Massachusetts. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

(For conference report and statement, see proceedings of the House of September 21, 1950.)

The conference report was agreed to.

A motion to reconsider was laid on the table.

(Mr. DAVIS of Georgia asked and was given permission to revise and extend his remarks.)

SEPARATE SETTLEMENT CONTRACTS WITH SIOUX INDIANS

Mr. MORRIS. Mr. Speaker, I call up the conference report on the bill (H. R. 5372) to authorize the negotiation and ratification of separate settlement contracts with the Sioux Indians of Cheyenne River Reservation in South Dakota and North Dakota for Indian lands and rights acquired by the United States for the Oahe Dam and Reservoir, Missouri River development, and for other related purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The Clerk read the statement.

Mr. MORRIS (interrupting the reading of the statement). Mr. Speaker, I ask unanimous consent that the further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

Mr. RICH. Reserving the right to object, Mr. Speaker, we ought to know what this bill does.

Mr. CASE of South Dakota. Mr. Speaker, will the gentleman yield?

Mr. RICH. I yield.

Mr. CASE of South Dakota. I was the author of the bill as it passed the House. I have examined the conference report. The conference report largely restores the provisions of the bill as passed by the House. There is one important change in that a paragraph was added by the conferees which provides for ratification on the part of the tribe in conformance with the provisions of a treaty made many years ago, whereby the ratification of the tribe to cessions of land, would have to be by the vote of three-fourths of the adults of the tribe. We believe that it is better to provide that kind of ratification as far as the Indians are concerned, rather than by other methods, so there would be complete accordance with the treaty and not raise any questions later as to the validity of the action. Of course, it is generally recognized that Congress has the plenary power to legislate as it pleases but it ought not to disregard treaty rights once ratified.

[PUBLIC LAW 873—81ST CONGRESS]

[CHAPTER 1123—2D SESSION]

[H. R. 7824]

AN ACT

To provide for the administration of performance-rating plans for certain officers and employees of the Federal Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Performance Rating Act of 1950".

SEC. 2. (a) For the purposes of this Act, the term "department" includes (1) the executive departments; (2) the independent establishments and agencies in the executive branch, including corporations wholly owned by the United States; (3) the Administrative Office of the United States Courts; (4) the Library of Congress; (5) the Botanic Garden; (6) the Government Printing Office; (7) the General Accounting Office; and (8) the municipal government of the District of Columbia.

(b) This Act shall not apply to—

- (1) the Tennessee Valley Authority;
- (2) the field service of the Post Office Department;
- (3) physicians, dentists, nurses, and other employees in the Department of Medicine and Surgery in the Veterans' Administration whose compensation is fixed under Public Law 293, Seventy-ninth Congress, approved January 3, 1946;
- (4) the Foreign Service of the United States under the Department of State;
- (5) Production credit corporations;
- (6) Federal intermediate credit banks;
- (7) Federal land banks;
- (8) Banks for cooperatives;
- (9) officers and employees of the municipal government of the District of Columbia whose compensation is not fixed by the Classification Act of 1949 (Public Law 429, Eighty-first Congress, approved October 28, 1949);
- (10) the Atomic Energy Commission;
- (11) employees outside the continental limits of the United States who are paid in accordance with local native prevailing wage rates for the area in which employed.

SEC. 3. For the purpose of recognizing the merits of officers and employees, and their contributions to efficiency and economy in the Federal service, each department shall establish and use one or more performance-rating plans for evaluating the work performance of such officers and employees.

SEC. 4. No officer or employee of any department shall be given a performance rating, regardless of the name given to such rating, and no such rating shall be used as a basis for any action, except under a performance-rating plan approved by the Civil Service Commission as conforming with the requirements of this Act.

SEC. 5. Performance-rating plans required by this Act shall be as simple as possible, and each such plan shall provide—

- (1) that proper performance requirements be made known to all officers and employees;
- (2) that performance be fairly appraised in relation to such requirements;
- (3) for the use of appraisals to improve the effectiveness of employee performance;
- (4) for strengthening supervisor-employee relationships; and
- (5) that each officer and employee be kept currently advised of his performance and promptly notified of his performance rating.

SEC. 6. Each performance-rating plan shall provide for ratings representing at least (1) satisfactory performance, corresponding to an efficiency rating of "good" under the Veterans' Preference Act of 1944, as amended, and under laws superseded by this Act; (2) unsatisfactory performance, which shall serve as a basis for removal from the position in which such unsatisfactory performance was rendered; and (3) outstanding performance, which shall be accorded only when all aspects of performance not only exceed normal requirements but are outstanding and deserve special commendation. No officer or employee shall be rated unsatisfactory without a ninety-day prior warning and a reasonable opportunity to demonstrate satisfactory performance.

SEC. 7. (a) Upon the request of any officer or employee of a department, such department shall provide one impartial review of the performance rating of such officer or employee.

(b) There shall be established in each department one or more boards of review of equal jurisdiction for the purpose of considering and passing upon the merits of performance ratings under rating plans established under this Act. Each board of review shall be composed of three members. One member shall be designated by the head of the department. One member shall be designated by the officers and employees of the department in such manner as may be provided by the Civil Service Commission. One member, who shall serve as chairman, shall be designated by the Civil Service Commission. Alternate members shall be designated in the same manner as their respective principal members.

(c) In addition to the performance-rating appeal provided in subsection (a), any officer or employee with a current performance rating of less than satisfactory, upon written appeal to the chairman of the appropriate board of review established under subsection (b), shall be entitled, as a matter of right, to a hearing and decision on the merits of the appealed rating. If an officer or employee with a current performance rating of satisfactory has not requested and obtained a review of such rating as provided in subsection (a), such officer or employee, upon written appeal to the chairman of the appropriate board of review established under subsection (b), shall be entitled, as a matter of right, to a hearing and decision on the merits of the appealed rating.

(d) At such hearing the appellant, or his designated representative, and representatives of the department shall be afforded an opportunity to submit pertinent information orally or in writing, and to hear or

examine, and reply to, information submitted by others. After such hearing, the board of review shall confirm the appealed rating or make such change as it deems to be proper.

SEC. 8. (a) The Civil Service Commission is authorized to issue such regulations as may be necessary for the administration of this Act.

(b) The Commission shall inspect the administration of performance-rating plans by each department to determine compliance with the requirements of this Act and regulations issued thereunder.

(c) Whenever the Commission shall determine that a performance-rating plan does not meet the requirements of this Act and the regulations issued thereunder, the Commission may, after notice to the department, giving the reasons, revoke its approval of such plan.

(d) After such revocation, such performance-rating plan and any current ratings thereunder shall become inoperative, and the department shall thereupon use a performance-rating plan prescribed by the Commission.

SEC. 9. (a) Section 701 of the Classification Act of 1949 (Public Law 429, Eighty-first Congress, approved October 28, 1949) is hereby amended to read as follows:

"SEC. 701. Each officer or employee compensated on a per annum basis, and occupying a permanent position within the scope of the compensation schedules fixed by this Act, who has not attained the maximum scheduled rate of compensation for the grade in which his position is placed, shall be advanced in compensation successively to the next higher rate within the grade at the beginning of the next pay period following the completion of (1) each fifty-two calendar weeks of service if his position is in a grade in which the step-increases are less than \$200, or (2) each seventy-eight calendar weeks of service if his position is in a grade in which the step-increases are \$200 or more, subject to the following conditions:

"(A) That no equivalent increase in compensation from any cause was received during such period, except increase made pursuant to section 702 or 1002;

"(B) That he has a current performance rating of 'Satisfactory' or better; and

"(C) That the benefit of successive step-increases shall be preserved, under regulations issued by the Commission for officers and employees whose continuous service is interrupted in the public interest by service with the armed forces or by service in essential non-Government civilian employment during a period of war or national emergency."

(b) Section 702 (a) of such Act is amended by striking out "section 701 (a)" and inserting in lieu thereof "section 701".

SEC. 10. Section 703 (b) (2) of title VII of the Classification Act of 1949 (Public Law 429, Eighty-first Congress, approved October 28, 1949) is hereby amended to read:

"(2) No officer or employee shall receive a longevity step-increase unless his current performance rating is 'satisfactory' or better."

SEC. 11. The following Acts or parts of Acts are hereby repealed:

(1) Section 4 of the Act of August 23, 1912 (37 Stat. 413);

(2) The Act of July 31, 1946 (60 Stat. 751; 5 U. S. C. 669a);

(3) Title IX of the Classification Act of 1949 (Public Law 429, Eighty-first Congress).

SEC. 12. This Act shall take effect ninety days after the date of its enactment.

SEC. 13. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEC. 14. All laws or parts of laws inconsistent herewith are hereby repealed to the extent of such inconsistency.

Approved September 30, 1950.